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TRANSCRIPT
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MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Michael Knapp, President	
Councilmember Roger Berliner	Councilmember Marc Elrich
Councilmember Nancy Floreen	Councilmember George Leventhal
Council Vice President Andrews	Councilmember Ervin
Councilmember Praisner	Councilmember Trachtenberg



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COUNCIL PRESIDENT KNAPP:

Okay. Good morning, everyone. I apologize for the little delay this morning. The Council had a couple of meetings prior to our full public Council meeting. And so, we are a little bit delayed. We begin our morning with an invocation from Fr. Grant Gaskin, St. Bartholomew Church in Bethesda. Fr. Gaskin? And I would ask everyone to please rise.

FR. GRANT GASKIN:

Good morning. Let us call to mind the presence of God. This Thanksgiving, let those of us who have much and those who have little gather at the welcoming table of God. At this blessed feast, may rich and poor alike remember that we are called to serve one another and to walk together always in God's gracious world. With thankful hearts, we praise our God, who like a loving parent denies us no good thing today and every day. It pleases God for us to sit as brothers and sisters as we share the bounty of the Earth and the grace God has placed in each blessed soul. We ask God to bless this Council and the work they do. We give thanks and praise to our loving and gracious God. Amen.

COUNCIL PRESIDENT KNAPP:

Amen. God bless you very much.

FR. GRANT GASKIN:

Thank you.

COUNCIL PRESIDENT KNAPP:

As we start our discussion this morning in this Thanksgiving week, I would also remind people of the briefing that we had last week at the difficulties that many families in our community are facing. We heard that food stamp numbers are dramatically increased, and our homeless population is increasing. We know domestic violence numbers are up. All of these things point to the anxiety that exists primarily as a result of the economic downturn. And while everyone, I think, is struggling, we are--we do live in a community that is rich in resources and I would urge people this week to think of those less fortunate and to take a moment to reach out to your local food pantry to homeless--for the coalition for the homeless, to places that are in great need of resources, and make a contribution, be it of food, be it of money, blankets, jackets, whatever you might be able to do. It's important for us to remember that even though it is a difficult time, we are still a community that has a lot and to look out for others and to take this time to reflect during this period of Thanksgiving, to both give thanks but to--but to look out for those least among us and I would appreciate everyone as we do that as a community. It's a time when a community comes together. And apparently, over the course of the next year and a half, again, with what we're seeing with the economy, it's going to be important that we all come together a lot. So, I thank you all for that consideration. We now turn to general business. Ms. Lauer?



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LINDA M. LAUER:

We've added one item in the District Council session today, reconsideration and amendment and re-adaption of the Zoning Text Amendment 08-14 that was before you last week. Also, we've added this afternoon, at the end of the session, the PHED Committee will meet again briefly to talk about the infill housing proposals. That's it. Thank you.

COUNCIL PRESIDENT KNAPP:

All right. Thank you very much.

LINDA M. LAUER:

No petitions.

COUNCIL PRESIDENT KNAPP:

No petitions. Okay. Madam Clerk, are there minutes to approve?

Mary Anne Paradise:

You have the minutes of October 28th for approval.

COUNCIL PRESIDENT KNAPP:

Is there a motion?

COUNCILMEMBER TRACHTENBERG:

I'll move.

COUNCIL PRESIDENT KNAPP:

Moved by Councilmember Trachtenberg. Is there a second?

COUNCILMEMBER LEVENTHAL:

Second.

COUNCIL PRESIDENT KNAPP:

Seconded by Councilmember Leventhal. Discussion on the minutes? Seeing none, all in support indicate by raising your hand. That is unanimous among those present. Thank you. Now, I'll turn to the consent calendar. Is there a motion?

COUNCIL VICE PRESIDENT ANDREWS:

Move for approval.

COUNCIL PRESIDENT KNAPP:

Moved by the Council Vice President. Is there a second?



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COUNCILMEMBER LEVENTHAL:
Second.

COUNCIL PRESIDENT KNAPP:
Seconded by Councilmember Leventhal. Discussion on the consent calendar, Council Vice President Andrews.

COUNCIL VICE PRESIDENT ANDREWS:
Thank you, Council President Knapp. I'd like to ask Asst. Chief Wayne Jerman to come up to the table. His confirmation is on the calendar this morning and I want to say a few words about him.

COUNCIL PRESIDENT KNAPP:
Hopefully even good ones.

COUNCIL VICE PRESIDENT ANDREWS:
They're good ones. Well, good to see you. Well, this is a very significant appointment and I really commend the County Executive for this appointment. I know that Chief Manger was very happy to see this appointment and this will be very good for the county. Wayne Jerman has served this county for over 30 years, 32 years now, I think, in a large number of leadership capacities and has done a great job. I have had the pleasure of working with him over the years. And Wayne Jerman has helped to implement the lethality assessment program which is an important tool for trying to reduce the incidence of homicide among domestic violence victims. He has helped lead the effort to reduce and has reduced the DNA backlog, the DNA evidence substantially from over 400 cases to less than 100. And he has served in many leadership capacities during his three decades with the Police Department. It's hard to believe you're in your fourth decade already, huh? So, this is the confirmation of his appointment as Assistant Chief of Police. And I just want to say that the committee had interviewed him prior, did not feel the need to interview him again. We know of his good work and I wish him well. And we know that the county will continue to be well-served as he works closely with Chief Manger and Asst. Chief Hind as well. And let's see. Who else do we have? We have a number of people. All those who are here from the Police Department, raise your hand. There we go.

COUNCIL PRESIDENT KNAPP:
They brought their own cheering section. We got a good--

COUNCIL VICE PRESIDENT ANDREWS:
So, congratulations and thank you for your commitment to continuing to serve.



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WAYNE M. JERMAN:

Well, thank you very much. I'm very honored to receive this appointment. I appreciate the faith that Mr. Leggett and Mr. Firestine and most of all Chief Manger has placed in me. And I promised them as I promise you and all the citizens of the county, I will not fail and I'll continue to serve as honorably as I can. So, thank you very much for this.

COUNCIL VICE PRESIDENT ANDREWS:

Thank you.

COUNCIL PRESIDENT KNAPP:

Thank you very much. Mr. Berliner?

COUNCILMEMBER BERLINER:

Mr. Jerman has passed his prologue then I would say there's no question that you will continue to serve honorably. You have been a great support to my community and I just am very grateful to you and congratulate you. It's well-deserved, sir.

WAYNE M. JERMAN:

Thank you. I appreciate that.

COUNCIL PRESIDENT KNAPP:

I would also add my two cents to that. Oh, Mr. Leventhal?

COUNCILMEMBER LEVENTHAL:

Well, I also congratulate our new Assistant Chief. I've enjoyed working with him. I know he's very responsive to our constituents. I had a couple other items.

COUNCIL PRESIDENT KNAPP:

Okay.

COUNCILMEMBER LEVENTHAL:

So, if you want to continue to speak to the appointment of the Assistant Chief, I could defer.

COUNCIL PRESIDENT KNAPP:

We'll continue heaping accolades on Chief, Asst. Chief Jerman.

COUNCIL VICE PRESIDENT ANDREWS:

How much can you take?

COUNCILMEMBER LEVENTHAL:



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So, let me know when you're ready for--

COUNCIL PRESIDENT KNAPP:

Okay, let me just add. Let me just add to the Council Vice President's remarks and thank you very much for your years of service, but for your new and continued leadership. And thank you very much for all that you've done.

WAYNE M. JERMAN:

Thank you.

COUNCIL PRESIDENT KNAPP:

Okay. With that--

WAYNE M. JERMAN:

Thank you very much.

COUNCIL VICE PRESIDENT ANDREWS:

Very good. Well done.

COUNCIL PRESIDENT KNAPP:

That is nice. Did you have to pay all of them or did they come willingly?

WAYNE M. JERMAN:

[Speaking indistinctly]

COUNCIL PRESIDENT KNAPP:

Thank you, Chief. Councilmember Leventhal?

COUNCILMEMBER LEVENTHAL:

Okay. Just a couple of items. First of all, I'm very impressed with the high quality of applicants to the Commission on Veterans Affairs. I know that there's been enormous interest in the community in serving on this commission and it does come under the Health and Human Services Committee's jurisdiction. We certainly want to meet the needs of our veterans. I hope that with the Obama administration taking office that the federal role will be foremost here. We often have proposals before us. At least during the last eight years, we've had many proposals before us based upon a perception of inaction at the federal level. And we support our veterans. We need to provide them with resources. I appreciate the proposal that the County Executive recently made to provide Mental Health counseling through the mental health association for our veterans. We want to continue in that vein but we also need to make certain that especially now that we're seeing change in Washington that federal responsibilities are primarily carried out by the federal



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government. And so, I hope that this outstanding group of volunteers, really very, very impressive group will make that a priority. The County cannot substitute for every federal responsibility, and taking care of veterans is primarily a federal responsibility even as we all acknowledge their service and want to make all appropriate access available to county government as well. I also wanted to just ask if I could make a question of the chairman of the Public Safety Committee on Item L. There isn't anything about this \$1.6 million special appropriation to which I would object or think I have any reason to object but we are later on going to make some significant reductions to the budget and this is a large amount, this special appropriation. A little bit larger than we generally do on a consent calendar. So, could we just get a couple of sentences in these--

COUNCIL VICE PRESIDENT ANDREWS:
Sure.

COUNCILMEMBER LEVENTHAL:
Economic hard times as to why we're taking 1.6 million right now to do this?

COUNCIL VICE PRESIDENT ANDREWS:
Sure. The short answer is we're required to by the state to go and implement an electronic system and we're one of the few jurisdictions in the state that hasn't done so yet. And so, it is not really an option to do it or not. It will have many benefits. But essentially, we are required to do it.

COUNCILMEMBER LEVENTHAL:
Could I ask either the chairman of the committee or staff within the HHS Department and within the Montgomery Cares Program, there's a great deal of interest in developing an electronic medical record that is easily accessible and that communicates with other agencies. Does this electronic medical record--is it in sync in any way with the efforts underway in the Department of Health and Human Services, and particularly, in the Montgomery Cares Program? Are we developing programs that will talk to one another?

LINDA M. LAUER:
We have Fire and Rescue staff here that has come to address that.

COUNCIL PRESIDENT KNAPP:
Very good. Go ahead and introduce yourselves.

ASST. CHIEF
SCOTT GRAHAM:
Asst. Chief Scott Graham in the office of the Fire Chief.



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BAT. CHIEF DIANE ZUSTAN:

Bat. Chief Diane Zustan, the EPCR Project Manager.

COUNCILMEMBER LEVENTHAL:

So, does the system being developed by FRS, will it be compatible with related systems being developed within HHS and particularly the electronic medical record that's being-- the community health link program that's being developed under the Montgomery Cares Program? Will the systems be compatible?

BAT. CHIEF DIANE ZUSTAN:

The system that we're developing will be compatible with the hospital system in that we-- this is for, you know, someone when the ambulance goes out and has to create a report for every patient contact that we have. And presently, we have to give data to the state which is what Mr. Andrews spoke of. But it will also interface with the hospitals, but we've not interfaced. I'm not sure there's a reason to interface with the community--medical record of the patient. This is something for an emergency basis that goes only to the hospital. We keep a record for insurance purposes and patient record but--

COUNCILMEMBER LEVENTHAL:

Have you developed any collaboration with Holy Cross Hospital?

BAT. CHIEF DIANE ZUSTAN:

Well, all the hospitals that we have spoke to. Presently, some of the hospitals want--and presently, we give them a hard copy rather than electronic copy. Some of the hospitals have turned over to an electronic system and we're working with them. An HL7 format is what the hospitals use.

COUNCILMEMBER LEVENTHAL:

Okay. Of all the hospitals in Montgomery County right now, Holy Cross is very far advanced in its development of its own electronic medical record.

BAT. CHIEF DIANE ZUSTAN:

Yes.

COUNCILMEMBER LEVENTHAL:

So, I wonder, Minna, if you could work with Linda McMillan and just have Linda remind me on December 11th when the hospitals come before us to raise as a question whether this



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Fire and Rescue system is compatible, can be compatible as Holy Cross and other hospitals develop their systems and then also as we have a system that's been underway for a number of years in the Montgomery Cares Program. We should not be investing heavily in technology that the left hand can't talk to the right hand in county government. If we're going to make these investments in technology, they ought to be compatible throughout.

BAT. CHIEF DIANE ZUSTAN:

Yes.

COUNCIL PRESIDENT KNAPP:

It's a good point. Great. Excellent, excellent point. I mean I've seen the efforts that have happened in Montgomery Cares trying to get this done and you're exactly on point, I think, to make sure that as we do this, we get everything as in sync as we possibly can. So, we thank the chair of the HHS Committee. Councilmember Ervin?

COUNCILMEMBER ERVIN:

I just want to make an acknowledgement on the Office of the Legislative Oversight's work on the cost and performance of Montgomery County Public Schools, High School Consortia which we'll be taking up on December 8th. Once again, I just can't thank the Office of Legislative Oversight enough for its incredibly insightful work on this project, in particular. And so, we look forward to having that conversation. For those who don't know the schools, the high schools in our county that have consortia are only located in District 4 and District 5. And it's very important work as we are going to be laboring through a very difficult budget cycle to see whether or not some of the programs that we have funded in the past actually work. So, I appreciate the hard work of OLO on this.

COUNCIL PRESIDENT KNAPP:

Great. Thank you. Council Vice President Andrews.

COUNCIL VICE PRESIDENT ANDREWS:

Thank you. I just want to note that Asst. Chief Wayne Jerman is a very smart guy. Even though he heard all these good things, he's sticking around for the vote.

COUNCIL PRESIDENT KNAPP:

Good move. Just two points, on Item A, introduction of the end of your transfer for FY08 County Government operating budget. I know that we do this every year about this time. One of the things I've not yet seen and I didn't see necessarily connected with this but we're going to get an update on the fiscal plan next week is how did we actually finish up the previous fiscal year? How did--did we end up above? Did we end up below? And I



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think it's important for us to try and get--see some good clarity as to that because I'm not sure. It's now the end of November. We had the state here in the middle of September and they had closed their books at the end of July and had done all their various adjustments within two months and could actually tell us kind of how they closed out FY 07 and we're now five months later. And so, I just think it's important for us, first, to try to figure out a way to do it a little more quickly; but we'd like to make sure we understand kind of how we ended up the year.

CHARLES SHERER:

For County Government, the County Government as a whole spent \$14.9 million less than the budget. So, that's how we ended up the year, FY08.

COUNCIL PRESIDENT KNAPP:

Okay, good. Thank you. And then the other piece is in the Education Committee on... I guess it was Monday. It was just Monday? I guess it was just yesterday morning. We did the--we approved the resolution regarding Montgomery County Public School State Funding request for school construction. And just to put that out there. So Montgomery County Public Schools is eligible for \$114 million for school construction funding, which means that the county is expecting that it would pay \$114 million, roughly its fair share, if we're splitting this equally. We expect, however, that we will only assume, for budgeting purposes, \$40 million, and we're hopeful that we actually can get the state to stay at the \$40 million which is \$74 million below what we would be eligible for and we're just hoping that we can get to the \$40 million. So, I just wanted to put that out there because it's an exercise that we do each year. But it's important, I think, for us to understand especially in difficult fiscal times that the amount that the local jurisdiction is liable to pick up if we just get what we think the state is liable to fund--not what we're eligible for, just what we are liable to get, what we're liable to receive. So, that is going forward once we approve the consent calendar as well. I see no further comments on the consent calendar. All in support indicate by raising their hand. That is unanimous. Thank you very much. Mr. Berliner, before we turn to actual District Council session, do you want to--did you bring us lunch or is this something else?

COUNCILMEMBER BERLINER:

Well, it is something else, Council President. It is something that we discussed the other day when we had that very heart-rendering presentation with respect to how our food banks are at historic lows at a time when they are under unprecedented demand. And so, what we have here is just a reminder visually to those who are watching that to the extent possible, people should dig down and help out here and deliver canned goods. There are so many places that are accepting canned goods throughout our good county. This is a time to reach out to people particularly as we enter this holiday season on Thanksgiving when we have so many blessings here on this side of the desk, to just make sure that



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we're not forgetting the people who really need help and to just visually underscore that so I thought these canned goods might do that.

COUNCIL PRESIDENT KNAPP:

Mr. Hanson, do we need to turn the labels around so we're not serving as an advertisement for the various producers that... Okay. We now turn to District Council session. I thank Councilmember Berliner for his reminder of that for us. Our first element is action, resolution to approve use of Advanced Land Acquisition Revolving Fund for acquisition of real property for Tilden Woods Stream Valley Park, Mary Armstrong Property. And before we do that, I just wanted to--we actually have scheduled for a PHED Committee meeting. I forgot what the date was.

MARLENE MICHAELSON:

January 15th.

COUNCIL PRESIDENT KNAPP:

January 15th to address the concern that was raised by Councilmember Leventhal this past week as it related to how are the ALARF funds going to be allocated and is there a prioritization that we should look at or--especially as we look to implement the building lot termination program that we approved last week. And so, the PHED Committee will bring that back on January 15th. So, make sure we get that addressed very quickly. Okay, we need a motion for action resolution to approve the use of this ALARF.

COUNCILMEMBER BERLINER:

I move.

COUNCIL PRESIDENT KNAPP:

Is there a second?

COUNCILMEMBER TRACHTENBERG:

Second.

COUNCIL PRESIDENT KNAPP:

Moved by Councilmember Berliner, seconded by Councilmember Trachtenberg. Is there further discussion? Councilmember Leventhal?

COUNCILMEMBER LEVENTHAL:

I, for medical reasons, I may not be here at the Council on January 15th but I do appreciate the chairman of the PHED Committee scheduling that. And I just hope that we don't end up in a place some years from now where we wonder, my goodness, why didn't we ever buy those BLTs? We have a great opportunity to do it. My colleagues were here



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last week when I asked questions of the chairman of the Planning Board and his response was pretty unenthusiastic so, you know, we'll continue to have this dialogue. It's obvious that if we're going to implement the BLT program that we created last week, we're going to have to find multiple sources of dollars to pay for it. This acquisition seems all right to me. It seems merited and I'll vote for it; but I'm going to raise this point every single time we get an ALARF request from the Planning Board, so get used to it.

COUNCIL PRESIDENT KNAPP:

No, it's an excellent point and I appreciate you raising it last week. And if it's in your interest and you'd like us to put it later so you could be available--

COUNCILMEMBER LEVENTHAL:

I would not want to delay the committee. I think it's urgent that we act quickly and I'm delighted. I'll have staff attend and I'm delighted that the committee is acting so promptly. I appreciate it.

COUNCIL PRESIDENT KNAPP:

Okay, very good. We have before us then resolution to approve use of ALARF funds. Seeing no further discussion, all in support indicate by raising your hand. That is unanimous. Thank you very much. We now turn to one addition to our agenda, 5.1, reconsideration, amendment and readoption of the Zoning Text Amendment 08-14, Transit Mixed-use Zone Establishment. Let me see if there's a motion to put this on and we can walk through it really quick as to why it's here.

COUNCILMEMBER TRACHTENBERG:

I so move.

COUNCIL PRESIDENT KNAPP:

Moved by Councilmember Trachtenberg.

COUNCILMEMBER ERVIN:

Second.

COUNCIL PRESIDENT KNAPP:

Seconded by Councilmember Ervin. That was easy. Jeff, do you want to just give us a quick--

JEFF ZYONTZ:

Yes, when we were putting the resolution for the clerk signature, we found that one sentence was inconsistent with the other with regard to setback. We had a provision where setback must be provided that said that a building either had to have no windows



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on it or its neighbor had to have no windows on it. We then had the provision where no setback was required and if either one of those conditions was there, then you can provide no setbacks which was inconsistent. The proper word in the first phrase should be "and" not "or" as that was a substantive change to the ZTA. I'm asking Council for reconsideration to add the "and". Was that first motion actually a motion to reconsider?

COUNCIL PRESIDENT KNAPP:

Motion to reconsider then we need to actually move the amendment, then we actually need to re-adopt.

JEFF ZYONTZ:

Right, you need--

COUNCILMEMBER TRACHTENBERG:

I so move on reconsideration.

JEFF ZYONTZ:

Right. You need the vote on the--

COUNCIL PRESIDENT KNAPP:

Okay. We have motion for reconsider--

COUNCILMEMBER ERVIN:

Second.

COUNCIL PRESIDENT KNAPP:

Okay. So, that's out for reconsideration. Is there a discussion? Seeing none, all in support of reconsideration indicate by raising your hand. That is unanimous. Now, we have the amendment before us as described by Mr. Zyontz. Is there a motion for the amendment?

COUNCILMEMBER ELRICH:

Moved.

COUNCILMEMBER FLOREEN:

Second.

COUNCIL PRESIDENT KNAPP:

Moved by Councilmember--

COUNCILMEMBER FLOREEN:

Elrich.



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COUNCIL PRESIDENT KNAPP:

Okay, we're trying to move fast. A move by Councilmember Elrich. Seconded by Councilmember Floreen. Is there a discussion on the amendment? Seeing none, and I'll thank Mr. Zyontz for bringing this to our attention. All in support of the amendment indicate by raising your hand.

JEFF ZYONTZ:

You need a roll call on this.

COUNCIL PRESIDENT KNAPP:

Have a roll call on the amendment? Okay, we have to do--

COUNCILMEMBER LEVENTHAL:

The amendment can be--

COUNCIL PRESIDENT KNAPP:

Right, not a roll call.

COUNCILMEMBER LEVENTHAL:

I believe the amendment may be adopted by--

COUNCIL PRESIDENT KNAPP:

Right, so we're adopting the amendment. That's what I thought.

COUNCILMEMBER LEVENTHAL:

Passage of the ZTA.

COUNCIL PRESIDENT KNAPP:

So, the amendment is adopted unanimously. Now, we have a roll call on the actual re-adoption of the zone. Madam Clerk, if you'd call the roll?

MARY ANNE PARADISE:

Mr. Elrich?

COUNCILMEMBER ELRICH:

Yes.

MARY ANNE PARADISE:

Mr. Praisner?



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COUNCILMEMBER PRAISNER:

Yes.

MARY ANNE PARADISE:

Ms. Trachtenberg?

COUNCILMEMBER TRACHTENBERG:

Yes.

MARY ANNE PARADISE:

Ms. Floreen?

COUNCILMEMBER FLOREEN:

Yes.

MARY ANNE PARADISE:

Mr. Leventhal?

COUNCILMEMBER LEVENTHAL:

Yes.

MARY ANNE PARADISE:

Ms. Ervin?

COUNCILMEMBER ERVIN:

Yes.

MARY ANNE PARADISE:

Mr. Berliner?

COUNCILMEMBER BERLINER:

Yes.

MARY ANNE PARADISE:

Mr. Andrews?

COUNCIL VICE PRESIDENT ANDREWS:

Yes.

MARY ANNE PARADISE:

Mr. Knapp?



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COUNCIL PRESIDENT KNAPP:

Yes. The re-adoption is passed unanimously. Thank you all very much. And thank you to the staff for bringing that to our attention. We now turn to work session on limited amendment to the Wheaton Sector Plan. And this is a work session. We'll take straw vote. The straw vote concluding the work session, and this will come back for final action on December 9th. I'll turn to Ms. Michaelson.

MARLENE MICHAELSON:

Okay, this is a limited amendment. It covers a small area but nonetheless needed to be a comprehensive review. Very quick background the Wheaton Sector Plan was last done in 1990 and there was an opportunity to change some of the land use of the perimeter of the sector plan from a single use office to mixed use which would further the sector plan's goal of adding housing to the area. Council considered a short time ago whether this could be done through a Zoning Text Amendment and at that point determined that--or the PHED Committee determined that a Zoning Text Amendment would not be an appropriate way to change the land use, effectively change the land use on the parcel and directed the Planning Department to do a Master Plan amendment and that is what is before you today. I'm going to go directly to the main committee recommendations beginning on page 3. The first one was that you received some testimony questioning whether this is a comprehensive amendment. State Law requires a master plan to be a comprehensive amendment of all issues. And the Committee felt that with the exception of a couple of issues which will be addressed as we go along that this was in fact a comprehensive analysis and that it did meet that test. We also received testimony suggesting that this be deferred for the upcoming larger scale Wheaton CBD Sector Plan amendment and the Committee felt there really won't be a benefit to delaying it because land use analysis had been comprehensive and would be unlikely to change if it were delayed. And in terms of looking at whether it was a comprehensive analysis, the Committee went through each of the major components of the master plan to determine that there was that analysis. They looked at the transportation analysis and found that the change in land use and zoning would actually improve transportation and traffic in the area. And the Committee supported that analysis as submitted. The Committee reviewed the environmental analysis and found that, although, it was generally supportive that the environmental analysis delved into issues that were unrelated to land use and issues that could change over time and asked staff to revise it to take out references to things like, for example, Energy Star Appliances. Although, everyone supports it, a land use document is a 20-year document and not something that should have references to things that could change next year or the year after. So, on page 4 of the staff memo, you see the amended language that essentially keeps the emphasis on doing everything you can from a land use perspective to improve the environment and especially to deal with things such as carbon emissions, increasing

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energy efficiency, and conserving water, and it takes out references to things that are not land use-related. Moving on to public facilities, again, another part of a comprehensive analysis, the limited sector plan amendment did not have a section on public facilities, particularly schools, parks, and recreation, so planning staff drafted that at the Committee's direction. Those additions to the plan, you can see on pages 4 and 5 of the staff memo. And so with those additions, the Committee believed that the analysis was now comprehensive. Moving on to land use and zoning, I want to first direct your attention to the map on Circle Ten that appears in the plan just so that you have a basis of understanding where the different parcels are. The area outlined in dark blue is the area for the limited amendment. The parcel to the north, Parcel P920 is the Wmata property that is currently zoned residential and where they'll hear there's a recommendation for CBD zoning. Parcel C5, 6, 7, 8 are all zoned C-O and there's a recommendation in this plan to change parcel C5, 6, and 7 to CBD 1 and finally parcel 8 and that will be the specific parcel we start with is currently C-O and the majority of the committee supports the master plan recommendation to keep it C-O. And so to start with, the small parcel 8, which is probably the most--the one contentious issue in this plan. The property owner there, Mr. Weinberg was very concerned about making sure that the change in zoning surrounding him did not negatively influence his existing tenants and the property there. As I said, it is currently zoned C-O, it is developed, and the Planning Board recommended keeping it C-O so that there would be no problem with grandfathering and so that the existing uses could continue.

COUNCIL PRESIDENT KNAPP:
All right.

MARLENE MICHAELSON:
Should I stop now or keep going?

COUNCIL PRESIDENT KNAPP:
Unless there are some questions.

MARLENE MICHAELSON:
Sure.

COUNCIL PRESIDENT KNAPP:
Councilmember Ervin.

COUNCILMEMBER ERVIN:
Yes, thank you so much. I'm really happy with the work of the PHED Committee. I want to congratulate you all for the recommendations that you've come up with. However, on this one particular recommendation, I need to understand the Committee...



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COUNCIL PRESIDENT KNAPP:

The butts always get it.

COUNCILMEMBER ERVIN:

Yeah, but, if we're--if this is all about, you know, the future, how is it that we are going to take the one parcel and keep it C-O and then build CBD-1 around it? How is that going to look?

MARLENE MICHAELSON:

Well, I can tell you the committee majority and minority view on that, which was there was a split on that very issue. And the majority agreed with the Planning Board that since there was an existing development on parcel 8 and property owners surrounding it that were planning an imminent, new development and that the property owners did not reach any agreement. The Planning Board felt that there was no potential certainly in the short term for a joint development and they thought the simplest way to preserve the existing owner's development--owner's existing development on parcel 8 was just to keep it C-O and the C-O zone does have a grandfathering provision. The minority felt that rather than look to the current ownership patterns and what had been discussed in recent negotiations between property owners that it was better to do CBD-1 because if there was a change in ownership or the existing deal fell through that there could be more comprehensive development if the entire area was developed CBD-1. So, we did have a split on that issue of whether you went for simplicity given that you had both an existing development and an imminent development versus looking at what could happen over the long term if there's a change in ownership. I do want to also mention that since we have an upcoming amendment to the entire Wheaton CBD plan, I think the majority felt that if anything changed between now and then, this issue could be revisited.

COUNCILMEMBER ERVIN:

I appreciate that. Thank you.

COUNCIL PRESIDENT KNAPP:

Councilmember Berliner and good--excellent explanation. Thank you.

COUNCILMEMBER BERLINER:

Marlene, I'm a little late but turn back to the discussion with respect to the environment. In the legislations the Council approved on Earth Day, there was a requirement, as you know, for Park and Planning in master plans to take carbon footprint into account in ways of minimizing our carbon footprint.

MARLENE MICHAELSON:



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Absolutely.

COUNCILMEMBER BERLINER:

So, talk to me as to how it is that they are going to fulfill their obligation we ask them to undertake and the suggestion that to the extent to which we seek to address these issues, it should only be through legislation or slash regulations because we did impose and affirm the duty on them to address these issues when we're looking at plans of this nature. Now, perhaps, this isn't the plan of that nature that we're referencing.

MARLENE MICHAELSON:

Yeah, I think the revised language basically says you should look at carbon emissions through any land use tool that the commission has available to it when it goes through the regulatory process. What the committee was concerned about was references to things like Energy Star Appliances because the Planning Board has no ability in the regulatory process of saying, "Here's the appliances you want to put in there." Certainly, the county government can pass regulation laws that deal with things like what's inside a building or other measures. So, I think what the committee was saying is remind the Planning Board that anything that is within a land use jurisdiction or anything that they can do during the regulatory process, they should, but putting in a master plan something like--you know, again, I keep going back to the appliances. It sets up a false expectation because the Planning Board has no ability to control appliances.

COUNCIL PRESIDENT KNAPP:

And that was the discussion we had, so basically we want to try to--well, certainly we reinforce to the committee the fact that we want them to do what we suggested and mandated for them to do, but to do what was identified as appropriate for whichever vehicle is before us, and the master plan wasn't necessarily the place to talk about appliances, but we tried to capture a language and then point it back to the legislation regulation so to make sure that those were included in further discussion as it got to the more appropriate area where that would be the reasonable discussion.

COUNCILMEMBER BERLINER:

Okay.

MARLENE MICHAELSON:

Okay. So, partially, we talked about the zoning. The other issue that arose as I noted was that the property owner was very concerned about the surrounding development and how that would affect existing tenants there, both in terms of whether the new buildings would surround them, tower over them, not have appropriate setbacks, the height of those buildings, and also parking. And the property owner submitted a very detailed list of guidelines he wanted to add to the master plan. Both Council and planning staff and the



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committee in turn felt that those very specific limitations were inappropriate and instead have recommended some language to flag that there needs to be lower heights next to the existing development that there needs to be increased setbacks, and also noting that parking needed to be looked at to make sure that the new development did not impinge upon the public parking that is used by the existing tenants, in other words, make sure that the existing tenants would still have sufficient parking when new development occurs. And you can see on the top of Page 7, the additional new language added to ensure compatibility between the new development and the existing development and also additional language on parking.

COUNCIL PRESIDENT KNAPP:
Councilmember Ervin?

COUNCILMEMBER ERVIN:
Thank you. When you speak about existing tenants, are we referring to just this one tenant?

MARLENE MICHAELSON:
It's anything on parcel 8.

COUNCILMEMBER ERVIN:
Anything on parcel 8.

MARLENE MICHAELSON:
Because at this point, it appears that that is the only thing that will not be subject to redevelopment under the CBD-1 zone, so the rest of the area is being rezoned, it's anticipated that there would be new development. I mean, certainly, I think if you look at the language, it focuses on parcel 8, but I think it's more of a general concern in making sure that new development is compatible.

COUNCILMEMBER ERVIN:
No, I appreciate the fact that you're trying to keep this general and not specific to one property owner which I would have a serious problem with. And so, as we move forward in the discussion about the broader sector plan, I think it's really important that we try to do that.

MARLENE MICHAELSON:
Absolutely.

COUNCILMEMBER ERVIN:
So, thank you.

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MARLENE MICHAELSON:

Then moving on to parcel C-5, 6, 7, again this is currently recommended C-O, a commercial office single-use. The master plan--our sector plan amendment would change it to CBD-1, which allows a mix of uses, significant addition of housing to the area and some additional density at this site. And the committee felt that this was appropriate, that it was consistent with the goals of the 1990 Sector Plan and with the County's broader housing goals. So, the committee did support this, again noting that there would be some limitations on the mass and bulking so that there wasn't too much of a negative impact on the surrounding development. Okay, finally, we have Parcel 920. This is the northernmost property owned by Wmata. And the existing zoning on this property is R-90/TDR-9, which would allow development at 9 units per acre. But, to the north of that property, land was already rezoned to allow development at 15 units per acre. So, we had a little bit of an anomaly, because as you get closer to Metro, you want the density to increase but we had higher density, a dip down, and then higher density again. The Planning Board recommended rezoning this property to CBD 0.5. And the Committee supported the rezoning but was concerned that this could allow up to 100 units per acre, which seemed pretty dense. So, the committee asked the Planning Staff to do an analysis of what would be an appropriate level development on this site. The Planning Department felt that given the topographical constraints and the location of the property that a maximum of 50 units per acre would be the highest you could get and therefore the committee suggested adding language to the plan indicating a maximum of 50 units per acre. The Planning Board at the time of development would still be looking at compatibility issues so it's possible it could be lower than that, but at least it sets some more realistic level of development for this parcel.

MR. KHALIDH:

Just one question for clarification, when you say maximum 50, that means the way we use them in standard zoning language which means MPD use and work force housing could be on top of that? Is that the understanding, right?

MARLENE MICHAELSON:

I don't see any reason to assume otherwise.

MR. KHALIDH:

All right. Yeah.

MARLENE MICHAELSON:

Okay. And you do see the specific language on page 8 and page 9. And again, this also adds a comment about the parking as well. And finally, you received some comments objecting to the removal of the Wheaton Overlay Zone and the Wheaton Overlay Zone



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capped the height required for ground use retail. As I tried to investigate why the overlay zone was there in the first place, what I found was the 1990 Plan did not recommend an overlay zone in this location, and that it appears to have inadvertently been placed during the sectional map amendment. Not only that, the removal of the overlay is consistent with all the other objectives described in the plan and therefore the Committee supports the removal of the overlay zone.

COUNCIL PRESIDENT KNAPP:

Thank you. Thank you for your overview. Any comments from committee members? Councilmembers? I don't see any. At this point, then all we have before us with no further discussion is a straw vote as to support for the Wheaton Central Business District and the City Sector plan. Seeing no further discussion, all in support of the sector plan as presented by staff with the appropriate amendments made by the committee indicate by raising your hand. That is unanimous among those present. Thank you. All right. Nice job, everybody. Right on time. Thank you to our Park and Planning staff and to Council staff. I appreciate the efforts on that. We now turn to--we're actually a little behind. Amendment to the Master Plan for Historic Preservation

Individual Historic Resources. And again, this is a work session. The only votes we'll take today would be straw votes. There may be issues that Councilmembers want on individual properties, which may require further discussion. The first one of these, we're doing two historic master plans, two sets of amendments. The first is pretty straightforward. I would just say--I think this is only--in the last Council, there were amendments to the Historic Amendments to the Master Plan that came up once and I believe--so these are two kind of at one time. So, there have been a variety of reasons as to why these have been held up, but we're now going to get to focus a fair amount of attention on historic designation. One of the issues that the committee wrestled with in--not so much on this one but in the next one is the interaction between designation suggestions by the Historic Preservation Committee and Park and Planning and the interactions with the individual property owners, and you will see in the next set of discussions that it wasn't quite as straightforward as we all would have liked. Fortunately, in these amendments, these were all very straightforward. The property owners were all in agreement. And it was a pretty up and down discussion, which was nice. Also, Councilmembers will see--we also have attached a brochure, the Individual Historic Resources Amendment. This is actually probably the best place to see the pictures of the properties because none of these really translate very well in black and white so we had this contained for people to look at it so you could actually see the properties themselves. With that, I would turn it over to Mr. Zyontz to walk through the respective properties as necessary.

JEFF ZYONTZ:

I will do that very quickly. The Historic Preservation staff, Claire Kelly, does have PowerPoint if the committee wishes on this or the other topic, and we can set that up.



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There are 5 properties being designated. Two are sort of railroad remnants if you will, stone culverts and railroad beds that's on homeowner association property up in Germantown, and then leading to the Little Seneca Viaduct, which is at the bottom of Black Hill Lake on property owned by WSSC and Park and Planning. The next 3 houses were all recommended by their owners for designation. Since their recommendation for designation that was confirmed by HPC and confirmed by the Planning Board, the Seymour Krieger House was actually put on the National Register of Historic Places so it had recognition already in some regard that was voluntary on the basis of the homeowner going forward with that nomination. Other than that, the only amendment proposed is to conform the maps to the same way that we will do maps into the Damascus plan, which is to have any indication of the master plan of highway where that issue is relevant.

COUNCIL PRESIDENT KNAPP:

Okay. Any discussion on the first set of designations, Master Plan for Historic Preservation including individual historic resources? Seeing none, all in support of the amendments as proposed indicate by raising your hand. Very good. And again, that's a straw vote. So, thank you. This will come back for final action on the 9th.

JEFF ZYONTZ:

We'll have a resolution that will be very short, which is unlike this other one, I think.

COUNCIL PRESIDENT KNAPP:

You can tell by the length of the next packet that there were a lot of properties that were designated. The committee had, I think 3 work sessions. I would just at the outset also like to recognize the efforts of our historic preservation staff. Not having had the benefit of a lot of feedback from the Council, I think they were taking the law and the objectives as identified to them and were doing a very good job to try and bring things forward. One of the issues I think that we found as a committee during the discussion was the actual interaction with property owners and, generally--you can walk through the actual process of notification, but we were concerned I think as a committee that there were a number of places where no one from the properties had actually responded, and we--as what happened, a number of property owners then came and participated in our committee work sessions and so we ended up walking through all of these properties on an individual basis. And as you can see on page 1, there were those that were accepted unanimously but there were a number that were either 2:1 or they were modified from what had been recommended primarily as a result of the interactions with the property owners themselves. And so, I just wanted to kind of set that out there. It is an interesting process to say the least. And I would now turn to Mr. Zyontz to kind of walk us through the properties in the most efficient way possible.

JEFF ZYONTZ:



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Okay. And with regard to the process, certainly it wasn't an ideal situation where there was such a lag between the start of this process and it's coming to the PHED and the Council, and that delay changed circumstances in a number of cases. We had some demolitions by weather among other things. And it required some updating to what went actually before the Planning Board. And the HPC staff was responsive in those areas to say, "Yeah, it's demolished. We should recognize that and let's change the maps and go on." The Committee agreed with a number of recommendations, and if you--how do you wish to do this? To go through every individual site? Do you wish to see them? I'm at your pleasure.

COUNCIL PRESIDENT KNAPP:

I'll just say let's walk through and see if Councilmembers have any questions on particular sites. I would just say for clarification, if you look at Circle 107, you can see the sites that were recommended for master plan designation and then you can see those that the committee recommended taking out, so you can kind of get that as contrast and context, and then walk through--

JEFF ZYONTZ:

Right. Okay. Where there was an agreement to designate was on the first page of the packet, and that's Browningsville Hall, Perry Watkins House, Williams Browning Farm, Kingstead Farm, Rezin Bowman Farm, Grafton Duvall/Frank Duvall Farm--lot of Duvalls in this area--Etchison-Warfield House, Bowen House, James Magruder Farm, Wightman House, Friendship Church, Sarah Posey House, and the Black and White Inn. The other one that is my--might be my error in the packet is I was a little bit uncertain on the Benson House and I thought the committee would have been okay with designation if the property owner consented to designation. We since contacted the property owner and they consented, so I don't know if you want to move that to the recommend list.

COUNCIL PRESIDENT KNAPP:

All right. I would make that motion to.

JEFF ZYONTZ:

Okay. So, that is the list where there was agreement. There were some changes along the way to the buildings designated certainly on the King Farm. The committee went through a long discussion with the property owner on the appropriate restrictions to their designation when you're doing farming, to the proper designation of buildings, to identifying those structures that were actually contributing and those maps have been changed to reflect that. So, that was the largest textual change. There are some minor textual changes with each of those, but I don't know that it's worthy of the full Council's attention if they didn't find anything in the draft that was presented to them. Now let's get to somewhat more interesting areas. The first is the Woodfield district. And this--



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COUNCIL PRESIDENT KNAPP:

Before you get there, let me just see. Mr. Leventhal, do you have comments on the first?

COUNCILMEMBER LEVENTHAL:

I have a couple of threshold questions, and--

COUNCIL PRESIDENT KNAPP:

Sure.

COUNCILMEMBER LEVENTHAL:

And I'd like to understand. We got--I'm responding to concerns raised by two constituents. And I just wanted to know how and whether the Committee took those into account. I have my computer here because I'm reading from the messages that we received. I'm sorry. Just give me a moment here. Mr. Wade Butler, who we all know well... I thought I had saved this here, and I did. So, the Agricultural Advisory Committee weighed in expressing general concerns about several of these designations. And without going, you know, property by property, can I just understand how the Planning Board--did the Planning Board take into account the Agricultural Advisory Committee's concerns? Did the PHED Committee take those into account? I can read his message, if necessary. I would just like to make sure that the Council considers their point of view.

COUNCIL PRESIDENT KNAPP:

Uh-huh.

JEFF ZYONTZ:

I mean, certainly, the--we're dealing with operating farms. We were concerned and look to those things that were--that allowed agriculture to continue. There are already standards within Chapter 24 that exclude the operation of farming from the need to even apply for permits. That already existed. I always think you got...

COUNCIL PRESIDENT KNAPP:

You got to repeat--I don't understand what that means. Could you repeat that?

JEFF ZYONTZ:

Yes. In Article 28, there are a number of exclusions. Even if you're designated as a historic site, you generally have to get a historic area work permit to do certain things. However, Article 28 says that you don't have to do certain things if it's for the normal operation of farming. So that type of exemption for the activity of farming already existed in the ordinance. And beyond that, my recollection is failing me. I don't know specifically what else the Agricultural Advisory Committee said.



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COUNCILMEMBER LEVENTHAL:

Well, let me read his letter then. He asked 3 specific questions and I'd like to get them addressed if you could. So, the first question is, "How did the historic preservation staff conclude the sites meet--" Now, I'm not sure which sites he's referring to so perhaps the HPC or Planning Board staff know which specific sites. There are several sites that Mr. Butler expressed concern on behalf of the Agricultural Advisory Committee in the Damascus-Goshen Historic Master Plan. So, the first question is, "How did the historic preservation staff conclude the sites meet the criteria for historic guidelines after the property owners made significant improvements which should serve to disqualify them?" Can we get an answer to that?

CLAIRE KELLY:

Claire Kelly, Historic Preservation Office. We look at the criteria in the preservation ordinance, which is both historic significance and architectural significance. In the case of a farmstead, there are a number of buildings. And in some cases, one or more of the buildings had had changes to them. But we weighed that against the history and the architecture of the property, and in some cases, even though some of the buildings have been changed, we still have found that the property merits designation because of its either historic or architectural importance.

COUNCILMEMBER LEVENTHAL:

Okay, second question. "If the proposed sites are approved for Historic Preservation Master Plan designation, will property owners be required to remove the improvements they've made over the past several decades and restore them to original condition?"

JEFF ZYONTZ:

No. If you want--HPC will say--

COUNCILMEMBER LEVENTHAL:

Can I get a concurrence on that?

CLAIRE KELLY:

If you want, yes, sir.

JEFF ZYONTZ:

I--no. Concurrence, no.

COUNCILMEMBER LEVENTHAL:

Why? I want to get that on the record. I'm trying to provide some reassurance for property owners here. Okay. And then finally, I guess Mr. Zyontz already asked this, but let me just



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get it on the record. "If the sites are approved and the property owner proposes to construct an addition, will the property owner be required to obtain a historic work permit for a proposed addition with terms and conditions that would require the site be restored to its original condition?"

CLAIRE KELLY:

There is no requirement to return a property to its original condition. If the house has an enclosed porch when it's designated, even if the porch originally was open, there is no requirement to return a property to its original condition. A historic area work permit would be needed for building an addition on the house or for building a new structure on the property, but there is, as Jeff mentioned, there is leniency that's written in the ordinance. For example, if it's a building to house tractors or if it's a building for a market on the farm, there is greater leniency on the regular farming operations for those kinds of properties. It's certainly for fences. For suburban properties, we require historic area work permits for fences. If it's a 400-acre farm and they want to put a fence up, that's, you know, something that can be done on an expedited staff level.

COUNCILMEMBER LEVENTHAL:

Okay. Could we talk generally? The Council President and committee chair alluded to this. But could we talk generally with all of you now about the issue of designating a property historic against the wishes of its owner? How does the Commission treat that problem?

JEFF ZYONTZ:

As Article 24--not article, Chapter 24-A of Montgomery County Code is written, the designation of historic properties does not require the consent of the owner. It is not a voluntary program. It is one that is mandated once the criteria is found by HPC and the Planning Board and the Council agrees to amend the master plan to protect those sites.

COUNCILMEMBER LEVENTHAL:

Are the owners' wishes considered as a factor by the Commission?

CLAIRE KELLY:

Yes, certainly, the owners' wishes are considered in. There have been cases--I mean, some of these properties, the significance of them is very clear. There have been others that were a little bit more on the fence about. And in some of those cases when the property owner said, "No, I don't want my property designated," then the Planning Board has gone with the wishes of the property owner. Another case is the significance--the history of the property is just so overwhelming, the Board voted in favor of designating those properties.

COUNCILMEMBER LEVENTHAL:



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Okay. So, I have now raised the questions in the communication from Mr. Wade Butler on behalf of the Agricultural Advisory Committee. I'm sorry that those were not available to the Commission and the Planning Board before they made their recommendations to us. And I'm going to consider this colloquy we've had is responsive to his questions. But I have another constituent who is known to many of us, Warren Fleming from Damascus. If it's in order, Mr. President, can I go ahead to his concerns now?

COUNCIL PRESIDENT KNAPP:
Sure. Sure.

COUNCILMEMBER LEVENTHAL:
Okay.

CLAIRE KELLY:
But before we go away from Mr. Butler's concern.

COUNCILMEMBER LEVENTHAL:
Yeah.

CLAIRE KELLY:
His property was on the Locational Atlas. It is still is--it's the Butler's Orchard Log House. And Mr. Butler attended public meetings and we've met with him privately. He expressed his concern about designation and his family opposed designation that--

COUNCILMEMBER LEVENTHAL:
Is that on this list that's before us today?

JEFF ZYONTZ:
No, no...

CLAIRE KELLY:
It is in this amendment. And it is in one of the resources that the Planning Board is not recommending for designation. The HPC is recommending it for designation. There are 3 resources that the HPC said, "Yes, let's designate," and the Planning Board said, no. And Butler's Orchard--the Historic Preservation Commission found it does have historic and architectural significance as a log house, one of the few log houses is in the area that still remains. The Butlers testified and sent letters opposing designation. The Planning Board is recommending it not be designated.

COUNCILMEMBER LEVENTHAL:



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And, oh, so, we're going to work through these property by property or what? How are we going to proceed?

COUNCILMEMBER BERLINER:
We can. I mean we worked on...

COUNCILMEMBER LEVENTHAL:
But I mean in the case of Mr. Butler's property, it's not highlighted in this signed--

JEFF ZYONTZ:
But--well, mainly because if the Planning...

COUNCIL PRESIDENT KNAPP:
Right. So, it wasn't, the Planning Board didn't forward that to us.

COUNCILMEMBER LEVENTHAL:
Oh, so it's not before us.

COUNCIL PRESIDENT KNAPP:
Exactly

COUNCILMEMBER LEVENTHAL:
Thank you. Thank you.

COUNCIL PRESIDENT KNAPP:
That went down before us.

COUNCILMEMBER LEVENTHAL:
Question asked, question answered. Okay. Let me address the two properties in Damascus, if I could, okay? Is that all right? Okay. So, there is some confusion--now the issue has to do with two properties that are before us. Those are the Friendship Church and the Inez Zeigler McAbee house. And, apparently, the community advocates in Damascus actually withdrew their request that those be considered because of changes, changes in the leadership of the church and changes in the occupancy of the house, but by that time the process was already so far along that those who had initially asked for these designations, they couldn't call them back. And now, they are recommended for designations; but the community advocates are requesting that they not be designated. Could we talk about those?

CLAIRE KELLY:



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That's right. The McAbee house and the Friendship Church were not on the original Locational Atlas and Inventory of Historic Sites. They were not previously identified as potential historic sites. I gave a presentation to the Damascus community as part of this evaluation of historic sites. Mr. Fleming approached me, said he is interested in having these properties designated and evaluated. And so, he did the research and the community nominated these two resources for designation.

COUNCILMEMBER LEVENTHAL:
Now he wants to call them back.

CLAIRE KELLY:
And so...

COUNCILMEMBER LEVENTHAL:
That's what he wants. It's not a joke.

CLAIRE KELLY:
Yes. And so they became part of this amendment. We have a 4-step process in the amendment. First, it goes to the Historic Preservation Commission and then the Planning Board and then County Executive, and the County Council. So the HPC and the Planning Board evaluated it as part of this Damascus amendment and they both recommended it be designated. So, that's why it's here in the amendment.

COUNCIL PRESIDENT KNAPP:
Well, and as the Committee left it, one--the Committee recommended, first, the Friendship Church for inclusion in the master plan. And then the second, the McAbee house, it was recommended that it actually be placed on the Locational Atlas. I just sent it because, previously, they've not been on the Locational Atlas. But that kind of puts it out there. So, the next time historic preservation comes around--the next time amendments come around, it could be designated, it could be up for further discussion, but it wasn't. So, it's kind of designated as a potential historic--you can describe about that Locational Atlas better than I can but it's on the Atlas but it's not necessarily designated historic with how the committee disposed of those two individual parcels, so...

COUNCILMEMBER LEVENTHAL:
All right. Well, I'm just going to share with my colleagues very briefly that, you know, I think we obviously face, as we often do, competing public policy goals. If you have an institution in a historic African-American community that has a legacy but which doesn't feel it can continue to operate and serve its parishioners, if it can't use its building, then is the historic purpose being served? If the church is no longer functioning as a church but the building is preserved in a condition that it was 100 years ago, does that really pursue the legacy of



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the church? So, and similarly, if you have an individual, Inez Zeigler McAbee, who was a leader in providing opportunities for people to live, you know, freely and without discrimination as an African-American in Montgomery County, and then her descendant has to leave his home because he can't afford the upkeep as a result of keeping it to the historic preservation code, it seems to me we're kind of getting--we're kind of running counter to the purpose that the historic designation was intended for. So, I would just appeal to my colleagues. Again, I don't know in what order we want to take these up. I don't--I assume we're not going to go page by page through...

COUNCIL PRESIDENT KNAPP:

No, I think...

COUNCILMEMBER LEVENTHAL:

You know, a 163-page packet. But I would, I would actually move at this time that we delete Friendship Church and the Inez Zeigler McAbee home from this list because we have--because the original advocate who asked for it to be added has now requested please that both be removed. So, I would make that motion and ask for a second.

COUNCILMEMBER ERVIN:

I second it.

COUNCIL PRESIDENT KNAPP:

I second it. Okay. We have a motion and a second. Is there a discussion on the motion?

JEFF ZYONTZ:

We do have pictures if you want to go--if you want to see the site in detail more or if you... The Friendship--I just had it and then I lost it.

COUNCIL PRESIDENT KNAPP:

It's on page--Circle 154, the Friendship Church.

COUNCILMEMBER LEVENTHAL:

Let me be very clear with my colleagues, if I could, Mr. President.

COUNCIL PRESIDENT KNAPP:

Sure.

COUNCILMEMBER LEVENTHAL:

In neither case are the property owners suggesting to damage the property to make major changes to the historicity of the property. In neither case--no demolition, no... It's just simply that the concern is the cost to them of maintaining it to a standard that the Historic



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Preservation Commission would require would be prohibitive. And they wouldn't be able to maintain their use and ownership of the property.

JEFF ZYONTZ:

And if I--

COUNCILMEMBER LEVENTHAL:

So they're not, so the historic resource is not proposed to be damaged or destroyed in either case.

JEFF ZYONTZ:

And if I might just say, with regard to maintenance, there is no affirmative obligation other than to keep it weather-tight and avoid demolition by neglect. The designation of a historic site doesn't say that you must do anything. It may prevent you from demolition. It requires you to go through to--for historic area work permits if you want to do additions. It requires some burden when you want to make significant changes, but there is no affirmative burden to the designation itself.

COUNCILMEMBER LEVENTHAL:

Yeah, I hear that but I can only, again, you know, reiterate the community leader--

COUNCIL PRESIDENT KNAPP:

Right.

COUNCILMEMBER LEVENTHAL:

From Damascus, Warren Fleming, who initially put this in the mix, is now saying he would like it to be withdrawn on his behalf.

COUNCIL PRESIDENT KNAPP:

And I think the Councilmember has pointed to the issue that you wrestled with through three work sessions. Councilmember Ervin.

COUNCILMEMBER ERVIN:

Yes, thank you very much. I just want to respond to Councilmember Leventhal's points that he just raised which I think are extremely important. If you look at Circle 156 and you read a little bit about the McAbee house, clearly, it's a very significant historic site for the county. And I will concur that I believe that's true. But on the other side of that coin, this African-American family which has been in the county for more than 100 years, almost 200 years, the person who will be living in that house today in 2008 is going to be burdened financially. And if this family wants to keep its legacy alive and they want someone to live on that property in that house, I think it's very important for us to hear



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them. And I'm hearing all the conversation here and I think I want to hear a little bit more about having this added to the Atlas in lieu of going the next step further, if you can tell me what that would do.

CLAIRE KELLY:

Well, the advantage of a property staying on the Atlas or being on the Atlas is that there is a potential when there is a new property owner to evaluate it at that time, if the concern is about the property owner. In the case of the McAbee house, we have so few remaining African-American dwellings that are left. We have none that have been designated currently that are houses of...

COUNCILMEMBER ERVIN:

You have none designated on the Atlas?

CLAIRE KELLY:

On the Master Plan because we have no, no houses that represent African-Americans, other than Oakley Cabin and that was not the house of...

COUNCILMEMBER ERVIN:

Well, clearly, the history is important to me, but I'm trying to make a point here that it is not currently on the Atlas.

CLAIRE KELLY:

Right.

COUNCILMEMBER ERVIN:

So, if it's placed on the Atlas, at least, we recognize it for its historic significance to the county without putting an undue burden on the family and to keep that family legacy alive, we--this is important history for us, but it's clear based on what Councilmember Leventhal just brought to us, that Warren Fleming clearly wanted to do something that he thought was right on behalf of this family. And then he withdrew his request when the family approached him and said this is going to be a burden on our family. And so, I'm listening. And I'm very, very much in Councilmember Leventhal's camp on this one. Which is why, if there is another way to do something here to recognize this--the significance of this house, what else could we do?

JEFF ZYONTZ:

Well, I think the committee picked that middle ground on the McAbee house by trying to just ask the planning board to put it on the Locational Atlas because that would protect it against a demolition permit and it offers some protections. It would also involve them if there were a significant change to the house. Not, you know, if you want to paint,



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everybody in the historic preservation can paint their house whatever color they want. They can replace everything that's there with what's there without getting permits. They can do lots of things on general maintenance without getting permits. They do have an obligation not to let it rain inside the house and let the wind blow through the house which is essentially demolition by neglect. So, I think for the McAbee house, I thought the Committee did pick that middle ground that you're sort of hinting of.

COUNCIL PRESIDENT KNAPP:
Councilmember Elrich.

COUNCILMEMBER ELRICH:

Yeah, I would agree with the McAbee house that it was the middle ground. And if the occupant wants to use it with rain in the house or wind blowing through it would probably be a detriment, to actually being able to use the house. And I thought that was a safe ground to take. On the Friendship Church, what are the economic issues associated with the Friendship Church that were raised?

JEFF ZYONTZ:

Again, it applies more if you're putting on a major addition and what you have to do to go through a historic area work permit versus what you would have to do for a regular work permit. And they see that as somewhat burdensome to what they might want to do either architecturally or expanding the space in directions that Historic Preservation might want to see that. Typically, the Historic Preservation is more permissive of things behind the main structure so that its view from the street looks the same. Well, that limits you on the type of things you can do to the side or other areas of the house or it may not depending upon what they come with on the historic area work permits itself. But again, the burdens would occur when and if they want to do some major addition.

COUNCILMEMBER ELRICH:

So what is the significance of the language on page 154 where it says "additions to the back of the church are to be reviewed with great leniency"? Does that have any meaning or...

CLAIRE KELLY:

Yeah, and that was added in response to the church's concerns, and so there already is an addition on the back of the church. And so, changes to that portion of the church are viewed with leniency. And it does have weight. It's something that the Historic Preservation Commission looks at when they're reviewing projects.

COUNCILMEMBER ELRICH:



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I mean, I guess when I was considering this, I was thinking about the map on page 153 which shows the location of the church. If you look at it, I mean realistically, if you're going to preserve the church in any sense, the greatest opportunity for expansion is out the back. You certainly aren't going to go to the front. And if you go to the right side of the church, then you would be definitely changing the character of the church forever; and whereas the back already has an addition on it and a ton of land on which to expand. So, I thought that if great leniency actually meant great leniency, then I was comfortable saying--supporting this because I thought they would be able to build at the back and address their expansion concerns.

JEFF ZYONTZ:

So--what? Your action is to?

COUNCIL PRESIDENT KNAPP:

I'm just saying if there's further--there's further response. Councilmember Berliner.

COUNCILMEMBER BERLINER:

I just want to clarify. Council President, I had inquired as to whether, privately, as to whether we could provide--I believe Councilmember Leventhal put forth his motion is...

COUNCILMEMBER LEVENTHAL:

My motion was to delete both properties. It's certainly in order to request a division. That's...

COUNCILMEMBER BERLINER:

I would request a division on the issue.

COUNCIL PRESIDENT KNAPP:

Okay. Further discussion on the motion? Seeing none, we have before us first the removal of the Friendship Church, the removal of Friendship Church from historic designation. All in support of the motion indicate by raising their hand. Councilmember Leventhal, Councilmember Ervin, Councilmember Floreen, and myself. Those opposed? Councilmember Berliner, Council Vice President Andrews, Councilmember Trachtenberg, Councilmember Praisner, and Councilmember Elrich. The motion does not carry. Now, we have before us site 15/116, removing the McAbee house from the Locational Atlas. All in support of removal of the McAbee house from the Locational Atlas, indicate by raising your hand. Councilmember Leventhal, Councilmember Floreen and myself. Those opposed? Councilmember Ervin, Councilmember Berliner, Council Vice President Andrews, Councilmember Elrich, Councilmember Praisner, and Councilmember Trachtenberg. That motion also fails.



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JEFF ZYONTZ:

On that second motion, was that actually a motion to move it to Master Plan designation or leave it--

CLAIRE KELLY:

No, just--

COUNCIL PRESIDENT KNAPP:

It was to keep--

JEFF ZYONTZ:

All right. I'm just, I'm just... I have to write this up later.

COUNCIL PRESIDENT KNAPP:

Okay. Further discussion. Councilmember Berliner?

COUNCILMEMBER BERLINER:

I had a question that I think Councilmember Leventhal raised an important issue with respect to, if you will, the standard of proof where the homeowner objects to the designation. And my question is whether or not our statute in fact creates a higher standard to take into account. So, when you would describe your response to it, that situation, you indicated that yes, you, A, take in to account those considerations. But where do you find the significance to be overwhelming, I believe, was your word and I'm not trying to hold you to that--you say in those situations, you effectively override the homeowner's personal desire with respect to that. I don't see any place in our statute, and I could be wrong--that, in fact, codifies that understanding in a way where there is, A, some required consideration being given to the homeowner, and, two, would there be, if you will, a higher threshold for you to meet--to overcome that homeowner's objections. Any thoughts with respect to that suggestion?

SCOTT WHIPPLE:

I think your analysis is correct. This statute doesn't provide for the HPC's recommendation to be based--or to take into consideration the homeowner's position. We're supposed to apply the criteria that the Council created for us, and that's what we do, in the same way that, with environmental protection or overlays--

COUNCILMEMBER BERLINER:

Right. I understand you're following our statute. My question is slightly different, which is assume for purposes of this that I am exploring the possibility of amending the statute, do you have a view with respect to whether or not an amendment of that nature would be appropriate in order to more directly ensure that a homeowner's views are, in fact,



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considered, not giving dispositive weight but where they opposed that you do what you say you do, which is determine whether or not, in fact, there is an overwhelming need.

COUNCIL PRESIDENT KNAPP:

And before you respond, I just want to let Councilmember Berliner know that I have, in fact, been drafting legislation that would potentially do that for introduction later on this year that we could then figure out ways that, in which whether there is a higher threshold or to require some element of consent on the part of the property owner just because given the number of issues that we went through, it seemed that we at least need to have that conversation outside of the context of the designation of the specific properties, because once we're here, we're here.

COUNCILMEMBER BERLINER:

Right. Right.

COUNCIL PRESIDENT KNAPP:

Once we have done that, we need to kind of at least have that discussion. So, I'm going to have something introduced in the next week or two.

COUNCILMEMBER BERLINER:

If you wouldn't mind responding, nonetheless. I'd appreciate that...

SCOTT WHIPPLE:

With respect to the President's initiative, that's exactly where I was going with my previous answer. I don't believe that when we're doing special protection areas, we take--the statute provides for trying to preserve or trying to limit impervious surfaces on most people's properties but not where owners object or to do forest conservation on most people's properties are aware, certain property owners object. And I would consider this--maybe, the issue isn't quite as grand in some people's eyes, but I would say that it's a similar consideration.

COUNCILMEMBER BERLINER:

Right.

SCOTT WHIPPLE:

Moreover, preservation best practice as it's applied in every state--well, as it's--as it's conceived nationally, let me put it that way, doesn't provide for owner veto.

COUNCILMEMBER BERLINER:

Just, let's be clear. I was not suggesting owner veto.



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SCOTT WHIPPLE:

Understood. Moreover, I understand that the State Historic Preservation Office is seeking an Attorney General's opinion as to whether voluntary ordinances would be consistent with the state enabling legislation. I realize that we're under a slightly different state enabling legislation here in Montgomery County than most jurisdictions are. But clearly, the intent of the state enabling legislation is that owner--the voluntary ordinances are not appropriate. Montgomery County is a certified local government. We meet certain federal and state criteria and get certain privileges including funding. And I suspect that if our ordinance became voluntary, it might call into question our certification as a certified local government.

COUNCILMEMBER BERLINER:

Okay. With the greatest respect, I don't believe my suggestion would make our ordinance voluntary, and I don't believe my suggestion would give veto. What I was exploring, and I will defer to the Council President was whether or not you should be required to take into consideration as you do all these others the homeowner's views; and two, when you find that there is a historic designation that is warranted notwithstanding the homeowner's view, that there perhaps be a slightly higher threshold for you to meet. I don't believe that makes it voluntary and I don't believe it makes it a veto. So, let's just be clear. Let's not have a strong-man conversation.

SCOTT WHIPPLE:

No, no. I'm sorry. I'm not trying to do that. I do think that as Claire was describing about some of the resources that we've considered in this process, to a certain extent, we're already doing what this legislation may propose. And this legislation from my point of view which might be different than others, I'm not sure that it's necessary.

JEFF ZYONTZ:

If I may just for the record on structure, what the statute says is that the Planning Board must consider specific things when it makes its designation. To that end, HPC by regulation looks at the same criteria. When it gets to the Council, it's a Master Plan amendment which you can find the public interest however you do that. But it's not--you are not mandated to follow all of those criteria.

COUNCILMEMBER BERLINER:

And I appreciate that, but I guess I would be aided in my own determination with respect to this if the guidance we were given was perhaps broadened to include this consideration.

COUNCIL PRESIDENT KNAPP:

Thank you. Councilmember Floreen.



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COUNCILMEMBER FLOREEN:

Thank you. Well, it's been interesting to listen to this exchange. I thought when Councilmember Leventhal was going through his correspondence, he was going to list one--I guess, maybe, perhaps, I'm the only one who got one which was an e-mail from Pam Saul about some of the issues that Mr. Leventhal had raised. I just shared with my colleagues what Pam tells us. She has property--it's either on the Locational Atlas or designated. She says, "The outside wall of our stone barn was falling apart and the roof needed to be replaced." I guess it's designated. "Because of the historic designation, we could not--we are unable to modernize it with upgraded material. We couldn't enhance or improve it. We had to make it like it was. It cost us \$40,000 out of pocket to do this, and the barn still has the same limitations it had 202 years ago." We've had similar kinds of concerns and we heard a comment from Claire about a fence in an agricultural environment--what do you have to go through to farm. And hearing that Council President is working on legislation, I would hope that that legislation will give us an opportunity to have a real conversation about what happens to people, particularly in the Ag Reserve, who are trying to do what we're trying to make--ensure that they do forever, which is to farm. So, I am worried about the nature of reviews. We've had--certainly, we have constituents who are mostly opposed to this because they don't know, frankly, what it means exactly. It's the "exactly" part that's really hard for them. And if they're looking at unanticipated costs, as we go through the energy initiatives that we're all interested in, how will the historic designation work with energy initiatives? I think we've had some preliminary talks about that. But we need to worry about that for our people as well. Because, I think if it's visible, it can be an issue. And I would hope that that--well, I would want to put those kinds of things on the table as we look at this, not to mention the issue of process. These poor people--if you're in the Locational Atlas, you're in limbo, basically, for years. I mean, for a really long time. How many properties--what's the longest amount of time that a property has been in the Locational Atlas?

JEFF ZYONTZ:

Since 1978.

COUNCILMEMBER FLOREEN:

Okay. That's 30 years. Now, of knowing that if you make a decision, if you need to do something, that will trigger a review of some sort. That may impede your ability to do something obvious or not. You don't know, and I think that is--is a problem for people. I don't think putting something on the Locational Atlas helps anybody. It just makes their lives more complicated. It's a "well, we'll see" message to the community. And I think we should be clear. I'm very supportive of historic preservation, but I'm not supportive of limbo as well. And so, I think we need to look at how this process works for people in real time, not just in academic time. And then, finally, we certainly discussed the issue of notice to



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property owners. This is an elongated process. I think we need to revise. And perhaps we can in the course of this legislative effort, look at the process experience, because we--it's--I'm not--I don't want to point fingers. I'm not sure that's--that's not the issue. It's really a question of how do we engage property owners with this at the time when they should be engaged? It's like Mr. Fleming. We didn't hear from him.

COUNCILMEMBER LEVENTHAL:

Well, actually, we did. His letter is included in the packet.

COUNCILMEMBER FLOREEN:

Well, we didn't have an exchange the way I think we should have--the committee asked the staff to go out and tell people again that this was an issue and to document the kinds of exchanges. It is an imposition. It is a challenge for residents to work through this as it is when they haven't solicited it and they haven't been engaged. And, it's a big education effort and I think we need to worry about that. And, finally, I think--I don't know as in the course of this legislation, we're looking at ways to help these people with maintenance issues. With--there are some tax credits that they can get. Are they sufficient? Is that sufficient incentive to overcome that natural anxiety about the unknown here? And hearing that there is a piece of legislation in the work to address some of this raises in my mind the opportunity to have a good conversation about all these points, to reflect a lot of the concerns that we've heard in the course of this exercise. So, I hope that the definition of the bill is broad enough, Mr. President, to allow us to have--

COUNCIL PRESIDENT KNAPP:

It is now.

COUNCILMEMBER FLOREEN:

To review this because I think it's a lot of work for staff. I know you don't have a lot of support. But it's more work for the people involved who have to understand a rather elaborate process and understand its real implications and then be faced with a situation where, at least in their mind, they can modernize something, that we want them to have functional support for another 200 years. So, I think we need to talk about that and see if there's a way that the bread box can be made better.

COUNCIL PRESIDENT KNAPP:

Councilmember Elrich.

COUNCILMEMBER ELRICH:

I think people have identified a number of areas that need some further exploration and I want to add one more to the hopper because it came up when we were looking at large parcels rather than the smaller parcels. And that's the environmental setting--because one



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of, I think, one of the great uncertainties that was introduced to people or the people felt unsettled by was that, today, we'll designate a historic property. And if it's 150-acre farm that's got a barn sitting, you know, 100 feet from the road and the house 50 feet from the road, the whole 150 acres is designated. And then the assurances from the Committee that when somebody actually wanted to do something, say you wanted to subdivide it to get a different economic use out of it, then they would determine what the historical setting is. The problem for the person who owns the property at this point is that's a crap shoot. You don't know what the historical setting is going to be and our maps don't necessarily show what is--even what a proposed historical setting could be. And so, I think some of the reservations that people have is not that you're simply going to designate a building, and, you know, and the way to get to the building in a narrow historical, you know, whatever--it's the setting that makes it significant, but, in fact, that at this moment, their entire farm is designated. Then, they have to wait later to see what's that--how that's ultimately going to play out, and that could very well affect what else they get to do with their land. And I think that's one of the things that I would have found very helpful in the process that we were doing is if recommendations had come through us not just as they were but with the historical setting defined so you could have had that conversation with us but also with the property owner so they could have looked at us and said, "Well, you know, this is--I can live with this because I'm going to be able to do other things with the rest of the property," and I think it would have been helpful. So, I would add that to the hopper, the kind of things that I think any kind of look at legislation has to deal with. But I want to say, I mean the hard thing about this is if you're making an historic designation, the first thing you're supposed to look at is the historicity of the property. And I found it very hard, you know, having somebody come to me and say this is historic for these reasons and they've got a list of criteria. It's not like they came to us and said we think it's historic but they had to say, it meant, you know, this criteria, this criteria, this criteria. Then all of a sudden, you know, what's the economic price or, you know, what's the economic disincentive to somebody that makes it not historic? Because the fact we might make an economic decision in somebody's favor doesn't make the property not historic. And in which case, we're making or maybe allowing an economic decision to allow somebody to do something which then offsets, you know, what we've already determined might well be the historic value of this property. And, maybe some of what Nancy has raised in terms of allowing people to do modernizations and, you know, would we rather allow some degree of modernizations, things perhaps that aren't allowed today in order to make it more acceptable, the properties be designated and retain their basic character. I think those are the kinds of things we need to think about. But it's very hard once you have gotten this presentation to just wipe it all out and pretend like I didn't hear it and just say this person doesn't want it and they don't think it's economically viable for them, but then ignore that evidence. I feel like I'm pretty strongly compelled to make my decisions on the evidence here. I mean, you'll see that I would not recommend--not recommend that site. I disagree with the committee on, I think, 3 sites. There are 4 that I thought, you know, we were right



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on. I understand that I probably caused some consternation in the Historic Preservation community by agreeing to anything not being historic. But I thought people made good cases. But I thought, you know, there were some cases where--and if you look at the pictures to match some of these, I think we went farther than we should have gone. They really did look like the kind of resources we'd want to preserve. This is not fun and we labored over this for a long time, property by property.

COUNCIL PRESIDENT KNAPP:

I appreciate the comments that the Councilmembers have raised because that exactly what took us 3 work sessions and about 12 hours to get through.

COUNCILMEMBER FLOREEN:

4 work sessions.

COUNCIL PRESIDENT KNAPP:

4 work sessions. No, and then, that's the real challenge. I think the points you've raised are significant and if you watched, you know, it's a challenge to continue to keep things historic in more historic settings. And so, this is not unique just to us. I think other parts of the country are going through this as well. To that end, before we--basically the Woodfield District is the last big piece under all the homes that we did not designate, correct?

SCOTT WHIPPLE:

That's correct.

COUNCIL PRESIDENT KNAPP:

Okay, I would make a motion along the lines of what Mr. Elrich just articulated. But, 14/32 which is the King Farm, my colleagues didn't agree with me in the committee or the property owners. But again, this is another one of those cases where it's a nice-looking home. It's an attractive home. People are living in it. And they're struggling with what the impact will be for them financially moving forward if they have that designation. And so, what I would like to recommend, Ms. Floreen's comments notwithstanding, that this be placed on the Locational Atlas because I didn't think it has--as Claire indicated earlier, that at least provides the ability to come back if the property changes hands, but it doesn't necessarily put the same level of owner requirements on them that would be placed on them otherwise. And so, I would make that motion to move 14/32 King Farm to keep on the Locational Atlas but not to have it designated historic.

COUNCILMEMBER LEVENTHAL:

Could someone just point us to what page?

COUNCIL PRESIDENT KNAPP:



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I'm sorry. It's on page, Circle 144. There is a second.

JEFF ZYONTZ:

It's also on the cover. No?

CLAIRE KELLY:

No. No.

COUNCIL PRESIDENT KNAPP:

No, it's not.

CLAIRE KELLY:

No, no, no.

JEFF ZYONTZ:

Oh, that's the King State.

COUNCIL PRESIDENT KNAPP:

There are a number of King Farms. So, the picture is on Circle 144. The map of it is on Circle 143. All right. Do you have additional comments?

COUNCILMEMBER ELRICH:

If you look at this house on 144, it really looks like it ought to be preserved. It's an example of--this isn't something questionable that's partly falling apart. And you've got to decide whether it's, you know, whether the boards are going to fly off the side tomorrow. It's a really fine specimen. This is where I think it gets hard not to follow the advice of the committee.

COUNCIL PRESIDENT KNAPP:

Councilmember Leventhal?

COUNCILMEMBER LEVENTHAL:

I'm sorry--

COUNCIL PRESIDENT KNAPP:

Okay. Councilmember Ervin?

COUNCILMEMBER ERVIN:

I just had a question on what you were just saying about there is a family living in this home, right? Are they descendants?



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COUNCIL PRESIDENT KNAPP:

No, they are not. Okay. I see no further discussion. All in support of the amendment. I'm guessing I know the number, but we'll see. All in support of the amendment? Councilmember Leventhal, Councilmember Ervin and myself. Those opposed Council Vice President Andrews, Councilmember Berliner, Councilmember Floreen, Councilmember Trachtenberg, Councilmember Praisner and Councilmember Elrich. The motion does not carry. Okay. To the Woodfield District.

JEFF ZYONTZ:

And probably the most complicated...

COUNCIL PRESIDENT KNAPP:

Yep.

JEFF ZYONTZ:

There are maps to help out the committee; but of course, now that I went to the other site, on Circle--on 137 is the best way to describe what the committee did and what was recommended. Essentially, the committee made the district smaller than it was. It excluded the 1, 2, 3, 4, 5, 6, 7, 8, 9 properties north of a lane that went into the district. It excluded them principally based on the opposition to homeowners in the area who thought they might be badly impacted by designation. It went forward with designation on the lower site despite some additional opposition to people that were more in the middle of the site. This actually--this district represents 3 periods of suburban construction, dating back to 1880. There are some noncontributing resources within--in the district as well, but it's a holistic area that represented significant suburban development. I'll also say this on the infrastructure basis. This is an area served by septic systems. These houses would be limited in their expansion capabilities because of their small lots and the need for septic service. So, it's not without its constraints with or without historic preservation. For the sites north of the district that the committee would recommend, it would recommend individual historic designations for the sites that did not object to designation, and they are--if you could see it on the map, they are starred, but you can also see them listed on Circle page 140. So, the sites toward the bottom of the page with specific addresses would be individually designated sites, and the district would be designated in a form reduced from the Planning Board recommendation.

COUNCIL PRESIDENT KNAPP:

Questions, comments? I don't see any.

JEFF ZYONTZ:

Okay. Moving on.



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COUNCIL PRESIDENT KNAPP:

Yep.

JEFF ZYONTZ:

All right. Now, we're going to a list of sites that were not recommended for designation. And in some cases, there were cases made that suggested that it wasn't as historic as it was or it didn't fully meet the criteria. In some cases, it was cases made that really the public interest didn't lie with designation, that the property owner had objections and they were significant to the area of the site. In some cases, it dealt with how poor the condition was of the existing resource so that, to restore to any meaningful way, it would take significant amounts of money. Now, again, I'm not sure how the Council wishes to proceed on this, whether it wants to go case by case.

COUNCIL PRESIDENT KNAPP:

Yes. If anyone has any questions on any of them? I don't see any. Councilmember Elrich.

COUNCILMEMBER ELRICH:

It's not a question, just a comment. I would ask my colleagues to look at the 3 that I actually voted for.

COUNCIL PRESIDENT KNAPP:

We can do that.

COUNCILMEMBER ELRICH:

And you will find them equally fine as some of the other ones that we've designated.

COUNCIL PRESIDENT KNAPP:

Again, we can walk through those 3. That's fine.

JEFF ZYONTZ:

So you want to go through...

COUNCIL PRESIDENT KNAPP:

The 3 where there was a dissenting vote.

JEFF ZYONTZ:

All right. So, the Mary Warfield house, 11/19.

COUNCILMEMBER LEVENTHAL:

Where is that?



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COUNCIL PRESIDENT KNAPP:

That's on Circle 2. I'm sorry, on page 2 midway down and it's on 122.

JEFF ZYONTZ:

But then we have to find it in the circle numbers.

COUNCILMEMBER LEVENTHAL:

Circle number?

COUNCIL PRESIDENT KNAPP:

Circle 122.

JEFF ZYONTZ:

122?

COUNCIL PRESIDENT KNAPP:

Yep.

CLAIRE KELLY:

You know, the Warfield Farm is being recommended for designation because it's very representative of a turn-of-the-century farmstead. The house, the bank barn, the corn crib, all date from that same time period. It was built by the Warfields. The Warfields continue to own it today. They built the Gothic Revival House, and there is also a concrete-block dairy farm--barn on the property. It's quite visible from Woodfield Road and it's highly representative of a farmstead. It's really got a very high level of integrity and it meets criteria both for historic significance and architectural significance.

COUNCIL PRESIDENT KNAPP:

All right. Is there additional question? Council Vice-President Andrews.

COUNCIL VICE-PRESIDENT ANDREWS:

Thank you. Can we get a flavor of the committee discussion on it?

JEFF ZYONTZ:

And it's also in the packet a little bit.

COUNCIL PRESIDENT KNAPP:

Where did you have this in the packet, Jeff?

JEFF ZYONTZ:

I'll find it in a second.

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COUNCIL PRESIDENT KNAPP:

Oh, here it is. It's on page 8, midway down. Okay. I mean, again, this--I mean, the nature of this discussion that came to the nature of a lot of these was where do we stand as it relates to the property owner and their ability to maintain it in the style that we think we'd like to see it, and I think that the committee kind of went through it. So, this is just a--at this point, we either--I don't know how many properties we've gone through, and when you ended up with a situation where once you have a discontinued theme, I think we're just struggling with--if you got that much, I mean, opposition, do you--which takes precedence? And at this point, the committee was leaning towards playing that heavily. Councilmember Floreen.

COUNCILMEMBER FLOREEN:

In addition, one of the issues for us, I guess, is, do you designate every attractive old house, which is kind of what it comes down to at a certain point. We look at a lot of these, or a lot in the community throughout and there are many attractive homes in Montgomery County. And it is really just a personal judgment call about whether this is so special that it warrants special rules.

COUNCILMEMBER BERLINER:

I have a quick question of the staff.

COUNCIL PRESIDENT KNAPP:

Yeah, I just--any comments from the--

CLAIRE KELLY:

Yeah, I just want to say that we have very few resources that have been designated in the Damascus area. And, basically, that part of the County was a very hardscrabble area and they continued long traditions into the early 20th century. There is still tobacco being grown in Damascus, on some Damascus farms. We have no turn-of-the-century farmsteads that have been designated in the Damascus-Goshen area. These are 2 planning areas that we're looking at. We had about 60 resources that we evaluated. This is the only turn-of-the-century farmstead that's being recommended for designation. It's the only representative of that time period. And so, I think there are a lot of resources that were on the Atlas that were taken off even before we started this amendment up, and we are only recommending less than half of the resources that we evaluated. And this is the only turn-of-the-century farmstead. So, we're not recommending every historic--there are many historic buildings that weren't even on the Atlas to begin with.

SCOTT WHIPPLE:



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I believe it's something like 1% of the buildings in Montgomery County that are designated or have the potential of being designated historic at the moment.

COUNCIL PRESIDENT KNAPP:

Councilmember Berliner. Oh, sorry, I'm done.

COUNCILMEMBER BERLINER:

And I take it there is no middle ground here. This is either in, out?

COUNCIL PRESIDENT KNAPP:

Not really. That's part of our struggle.

COUNCILMEMBER BERLINER:

That's where we are. So, the answer to my colleague's question with respect to the--her assertion that there are a lot of pretty old buildings and we're putting all these pretty old buildings or could be, your statement is, "No, we're taking an infinitesimally small number of buildings." So, are there a lot of other farmhouses in this area that you looked at and said, "No, they're not quite good enough," where you have made some reference to 60 possibilities?

CLAIRE KELLY:

Well, this amendment that the Planning Board sent to you has 57 resources in it. You're only considering today the ones that the Planning Board recommended in favor of designation. But there are an even greater number that the Board looked at and decided what didn't merit designation. When the original inventory was done in 1976, a decision was made about what to put in the inventory and what not to put. And in driving around this part of the county, you see many, many old houses that weren't considered potentially historic, that weren't even put on the Atlas. So, it is a very small percentage when you look at all the buildings that once existed and that are now being recommended.

COUNCILMEMBER ERVIN:

My question or comment really has to do with what the owner of the property says on Page 8 about--you know, clearly, he is adamantly opposed to including the site, but he says, "I respectfully submit to you that old and scenic are not the equivalent of historic." And he also poses his designation on constitutional grounds. Do we get sued ever? Have we had any cases brought?

JEFF ZYONTZ:

We haven't been. Certainly not on constitutional grounds.

COUNCILMEMBER ERVIN:



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Okay.

JEFF ZYONTZ:

And I don't know of--I'm trying to recall a suit on historic preservation and I can't recall one.

COUNCILMEMBER ERVIN:

Okay.

JEFF ZYONTZ:

And we did, in committee, go through the fact that, you know, clearly, the Supreme Court had said it is constitutional to regulate on the basis of historic preservation. It is within the public interest. You can interfere with private property rights on that basis.

COUNCILMEMBER BERLINER:

As I understand it, Mr. Council President, we have a recommendation from Park and Planning. We have a recommendation from the Commission and we have a recommendation from the staff that this be included. Is that correct?

CLAIRE KELLY:

And in addition, there is a recommendation from the Historic Preservation Commission in favor of designation.

COUNCIL PRESIDENT KNAPP:

Councilmember Elrich.

COUNCILMEMBER ELRICH:

I was just going to say that I thought that--to Roger's question about how many more things there were. Is this the end of the line? We're not going to go back and do a sweep of Damascus and cast another net and bring another group of properties in and do this again? I mean, we really are--because I think that's important because, you know, to Nancy's question--if we're going to, you know, if this was going to be one of many and that you guys could go out tomorrow and cast another net and come back and say, "Now, we've got a hundred properties we want to evaluate this time," and begin that process. My sense was this was sort of the end of the line for this.

CLAIRE KELLY:

Yeah, we have--we have a work program of working through the Locational Atlas, and we've been doing this since 1979. And it's taken us a long time, but we're going planning area by planning area. We have left to do the Little Bennett-Patuxent area, and we have the Poolesville Quadrant of the county. We have done all of down county. We've done the mid-county in terms of what was on the Locational Atlas. So, I don't anticipate another



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sweep of Damascus for some long time to come unless there was interest on the part of the citizenry to look at something else in Damascus. But we're working our way up County and out to Poolesville, and we have many more properties we'll be bringing before you that are Locational Atlas resources. So, that's what our work program is now.

COUNCILMEMBER FLOREEN:
Another 30 years.

COUNCILMEMBER ELRICH:
Well, then there will be things that will be 30 or 40 years old.

COUNCIL PRESIDENT KNAPP:
Is there a motion?

COUNCILMEMBER FLOREEN:
I think there is a motion.

COUNCIL PRESIDENT KNAPP:
No? There has not been a motion.

COUNCILMEMBER ELRICH:
I'll move to include this one.

CLAIRE KELLY:
Good, thank you.

COUNCIL PRESIDENT KNAPP:
Is there a second?

COUNCILMEMBER BERLINER:
I'll second.

COUNCIL PRESIDENT KNAPP:
We have a motion and a second on the, shall we get the right house, the George and Mary Warfield House, 11/19. Is there a discussion on the amendment or on the motion? Seeing no discussion, all in support of the motion indicate by raising your hand. Councilmember Elrich, Councilmember Trachtenberg, Council Vice-President Andrews, Councilmember Berliner. Those opposed? Councilmember Praisner, Councilmember Floreen, Councilmember Leventhal, Councilmember Ervin and myself. The motion does not carry. Okay, to 11/23.



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COUNCILMEMBER BERLINER:
11/23 on what page?

CLAIRE KELLY:

It's on page 126 of your packet. This is the Rezin Duvall Farm and this property is significant for representing the earliest settlement in this part of the county. This house does have a log house which was built to face Great Seneca Creek. It's now the rear portion of the current house. It's been--it was settled by the Duvall family. Louis Duvall obtained the original 1754 patent on the property. The Duvall family has lived here ever since. The road, Hawkins Creamery Road used to be called Duvall Road. It was platted by petition of Rezin Duvall. Later, the front part of the house was built by Sherwood Duvall in 1918. He was the founder of the Bank of Damascus and a County Commissioner. The property includes the dwelling house, a smokehouse, a corn crib, a dairy barn. I'm sorry, yeah--smokehouse, dairy barn, and it's a real landmark on Hawkins Creamery Road. It's being recommended for both its historic significance and its architectural significance. The family has been opposed to designation. We worked with the family to identify a specific environmental setting in this case of just over 3 acres in response to their concern about their ability to develop the property in the future and their opposition to designation.

COUNCIL PRESIDENT KNAPP:

I don't see further questions or discussion. The last one is Woodfield Farm. A motion, who'd like to move it?

COUNCILMEMBER TRACHTENBERG:
I do.

COUNCIL PRESIDENT KNAPP:
We have a move, a motion.

COUNCILMEMBER BERLINER:
I'll second.

COUNCIL PRESIDENT KNAPP:
11/23 Rezin Duvall Farm. Is there a discussion? A second?

COUNCILMEMBER BERLINER:
I seconded.

COUNCIL PRESIDENT KNAPP:
And again, I would just say, here is a--it is yet another example of property owners--I think have talked to many of us--are concerned about the designation, are concerned about the



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impact on their family, the economic issues, and, you know, it's a difficult discussion as to what is the criteria, and is it significant enough to override the concern of the family. And the committee found 2:1 that that was overriding. Further discussion? Seeing none, all in support of the motion indicate by raising your hand. Councilmember Elrich, Councilmember Trachtenberg, Councilmember Berliner, and Council Vice-President Andrews. Those opposed? Councilmember Leventhal, Councilmember Ervin, Councilmember Floreen, Councilmember Praisner, and myself. And the final property Woodfield--

JEFF ZYONTZ:

I'll skip the last one.

COUNCIL PRESIDENT KNAPP:

Okay.

JEFF ZYONTZ:

Okay. And then we have sites recommended for the Locational Atlas. I have to say to the Council there, the Locational Atlas is very unusual in the wording in that it doesn't give the Council a specific role. It's the Planning Board that designates things on the ordinance. It's the Planning Board that physically takes things off the--I'm sorry. It's the Planning Board that takes things on and off the Locational Atlas. So, sometimes, if it's not on the Locational Atlas and the Council thinks it should be, that's a request to the Planning Board. I think, certainly, if we look at legislation, we should clarify this role.

COUNCIL PRESIDENT KNAPP:

Right.

JEFF ZYONTZ:

Because if the Planning Board thinks that it will not be designated in the Master Plan, then it can treat the property as if the Locational Atlas designation didn't exist. So it's sort of odd, but we'll go with what it is.

COUNCIL PRESIDENT KNAPP:

Okay, we'll add that to the list of things we're trying to--

JEFF ZYONTZ:

That is the strangest...

COUNCIL PRESIDENT KNAPP:

Okay, all right.



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COUNCILMEMBER ELRICH:

Do we have a move for the Locational Atlas?

COUNCIL PRESIDENT KNAPP:

Say again?

COUNCILMEMBER ELRICH:

The move we did--didn't we?

COUNCIL PRESIDENT KNAPP:

No, we all...

JEFF ZYONTZ:

Oh, that, yeah, so you didn't do 11/19 and 11/23, not recommended for designation. You're saying you want to put it in this list of recommended for the Locational--or, I guess on those 2, it's retained on the Locational Atlas. They're already there, correct?

COUNCIL PRESIDENT KNAPP:

Say that again.

COUNCILMEMBER ELRICH:

Okay, where are we? What are we talking about?

JEFF ZYONTZ:

He's back to the--to this.

COUNCIL PRESIDENT KNAPP:

So you're making a motion to do, what? Turn your microphone, please.

COUNCILMEMBER ELRICH:

Take the 2 that failed. At least put them on the Locational Atlas.

COUNCIL PRESIDENT KNAPP:

Leave them on the location.

COUNCILMEMBER ELRICH:

Leave them on the Locational Atlas.

COUNCIL PRESIDENT KNAPP:

They're on now.



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COUNCILMEMBER FLOREEN:
It would be.

COUNCIL PRESIDENT KNAPP:
All right. So, there's a motion to place those 2 on the Locational Atlas. Is there a second?

CLAIRE KELLY:
They're already on it.

COUNCIL PRESIDENT KNAPP:
Or to retain them.

JEFF ZYONTZ:
Wait, they're already on. Your recommendation to designation effectively is a recommendation to the Planning Board to take them off the Atlas as well unless you say otherwise.

COUNCIL PRESIDENT KNAPP:
Right. And so his motion is basically saying otherwise.

JEFF ZYONTZ:
Correct.

COUNCIL PRESIDENT KNAPP:
Right. And so, I'm asking if there is a second to that motion?

COUNCILMEMBER FLOREEN:
Second.

COUNCILMEMBER BERLINER:
A question with respect to the motion. There were 3 properties that were not included, and we only discussed 2 of them. But it isn't clear to me that the motion should include all 3.

COUNCILMEMBER ELRICH:
It does include all 3.

COUNCIL PRESIDENT KNAPP:
He appreciates the Councilmember's persistence. Okay, the maker of the motion and the seconder of the motion are in agreement with Councilmember Berliner's suggestion.

JEFF ZYONTZ:



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These are the same properties we just voted not to designate.

COUNCIL PRESIDENT KNAPP:

That's correct.

COUNCILMEMBER BERLINER:

Now, we're putting them on the Atlas.

COUNCILMEMBER ELRICH:

Or leaving them on.

COUNCILMEMBER BERLINER:

Ensuring they'll stay on the Atlas.

COUNCILMEMBER LEVENTHAL:

Sorry, if I could just clarify it. You know, I realize it's a lot to ask, but I should actually understand what I'm voting on. The real effect, and I understand there's dispute and I understand there's fear. Property owners may have--some property owners may believe that the burdens of being designated are more onerous than, in fact, they are. Although the assertion is made by property owners that they have to get permission to paint their porch. Is that true?

CLAIRE KELLY:

No, there is no requirement for regular--for making regular maintenance on your property. And even if it were designated, there is no review of paint colors of properties. It's only, if it's designated, if you make a major change to the outside of your building or property.

COUNCILMEMBER LEVENTHAL:

Yeah, yeah. And the Locational Atlas, there is nothing at all.

CLAIRE KELLY:

The Locational Atlas, there is only Chapter 24-A10, which is, if you're going to make--or proposing a substantial alteration or demolition of the building, that, that...

COUNCILMEMBER LEVENTHAL:

So any improvement of any kind has to be cleared if you're designated?

CLAIRE KELLY:

Right.

COUNCILMEMBER LEVENTHAL:



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For example, this comes up a lot--installing solar panels. Big no-no, if you're designated.

CLAIRE KELLY:

It would require review by the Historic Preservation Commission. It doesn't mean you can't put up solar panels if you have a historically designated property. It just means the Historic Preservation Commission wants to look at it to make sure it's compatible with the--

SCOTT WHIPPLE:

The chairman of the Historic Preservation Commission has solar panels so I suspect--

CLAIRE KELLY:

And he lives in a historic...

SCOTT WHIPPLE:

And he lives in a historic--

COUNCILMEMBER LEVENTHAL:

Replacing the leaded glass with energy-efficient windows. That's come up in the past.

CLAIRE KELLY:

That would be reviewed by the Historic Preservation Commission, yes.

COUNCILMEMBER LEVENTHAL:

And not in the case of the Locational Atlas?

CLAIRE KELLY:

Right. In the Locational Atlas resource, if you want to make a change to the siding of the building, if you want to put up a garage, those are things that are considered not substantial alterations. It would basically have to be an addition on the front of the house or a demolition of the house that would kick in chapter 24-A10, and that provides for an expedited review of the resource. If the property owner wants to demolish the house, it kicks in an expedited review of the resource.

COUNCILMEMBER LEVENTHAL:

But they could--things on the Locational Atlas could come back at some point in the future for designation?

CLAIRE KELLY:

Yes.

JEFF ZYONTZ:



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If in fact, if there was an application for demolition, it would come back here to see whether you chose to designate it or not. At that point, if you chose not to designate, they can go and completely demolish the resource. That wouldn't have protection.

COUNCILMEMBER LEVENTHAL:

And so, the statement that we're making is having just voted against designation for 3 properties, if we then put it on the Locational Atlas, we would be saying, we want them to come back later.

COUNCILMEMBER ELRICH:

If they're going to demolish.

COUNCILMEMBER LEVENTHAL:

Yes--

COUNCIL PRESIDENT KNAPP:

Or the property changes hands or some other significant action later down the road.

COUNCILMEMBER LEVENTHAL:

So, when 5 Councilmembers voted not to designate these properties, in effect, we were weighing the merits of--we've read the history and they all had some history. They're old houses. Every old house has a history. Having read it, none of us were compelled enough to believe that the historic nature and the individuals who lived there and that the place that this particular structure played in the development of the county was so striking that it outweighed the inconvenience that the property owners were afraid of. But if we voted for Mr. Elrich's motion now, we would say actually we do think it's pretty historic, we just don't think it's historic enough to designate. That's a tough one to get.

COUNCILMEMBER ELRICH:

More than that, it's not historic enough to put the limitations on it that you would put on if you were designating. I mean, you're not saying, "This is providing less protection." It's saying, it's worth keeping, worth keeping on the Atlas, but we're not going to impose this higher standard of maintenance and review on this because we don't think it has merit to go that far. It has enough merit to, you know, if it's going to be, it's just going to hang around and you're going to paint it and fix it up. It's worth trying to maintain. But it doesn't put it into another category, which is, which I think most people agree is more onerous if you happen to be in that category.

COUNCILMEMBER LEVENTHAL:

Thank you. I just wanted to clarify.



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COUNCIL PRESIDENT KNAPP:

Further discussion? I see none. Those in support of the amendment to take the 3 homes that had not been recommended by the committee for historic designation and place the-- keep those on the Locational Atlas, indicate by raising your hand. Councilmember Elrich, Councilmember Praisner, Councilmember Trachtenberg, Council Vice-President Andrews, Councilmember Berliner, Councilmember Ervin. Those opposed? Councilmember Leventhal, Councilmember Floreen and myself. The motion carries. Anything left?

JEFF ZYONTZ:

I believe that's it, just the latitude to write this up as a resolution for your adoption and involve--this is exactly like a Master Plan. Your resolution will look like, will you change Page 6 in the following ways with the descriptions that are all attached in the back of the report.

COUNCIL PRESIDENT KNAPP:

Before we vote, I just want to thank our staff. I also want to thank the property owners. I know that in many cases, either they may have known they're on Locational Atlas or may not have known they're on Locational Atlas, and once they were identified as properties that were moving forward, spent a fair amount of their time both participating and worrying about how this proceeded. And so, I thank them for their roles. I also thank for those in the Historic Preservation Committees, in particular, the Greater Goshen Civic Association, because in addition to making recommendations, they also did some follow up work for us after the last committee where they went out and pursued a home to make sure that the new property owners were actually interested in the designation. And so, I thank them for their efforts above and beyond. We appreciate that.

MAN:

Goshen Historic Preservation--our name.

COUNCIL PRESIDENT KNAPP:

Sorry, sorry, Goshen Historic Preservation Society, members of whom reside in both organizations. So, I appreciate that. I didn't want to--I apologize for not getting that completely accurate. Councilmember Berliner?

COUNCILMEMBER BERLINER:

Is there any question with respect to the Benson house which was recommended for the Locational Atlas? Did that move up, too?

JEFF ZYONTZ:

That moved up, too. The committee agreed to making that a designation.



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COUNCILMEMBER BERLINER:

I just wanted to clarify that.

COUNCIL PRESIDENT KNAPP:

So, now, we have before us, not a final vote, but a straw vote. So, Jeffrey has the direction to go out and write the resolution. So, Mr. Elrich, further comment?

COUNCILMEMBER ELRICH:

No.

COUNCIL PRESIDENT KNAPP:

Okay. Any additional discussion on the overall amendments to the historic--the Master Plan for Historic Preservation? Seeing none, all in support of what we've done today indicate by raising your hand in a straw vote. That is unanimous. Thank you. Mr. Zyontz. Good luck drafting. This concludes this item. We are in--well, before we go to recess, before coming back this afternoon at 1:30, we have a public hearing and it's a public hearing with action. There are no speakers, so we'll start right up pretty quickly. And then, we turn to the Budget Savings Plan. And since each committee has had an opportunity to review the various elements that have gone to their committee, I will look to committee chairs to briefly run through what the committee's actions were that were taken in committee and so we can--we'll start through that. And then, we can walk through the overall plan. So, be prepared to do that when we get back at 1:30. We are in recess for lunch. Thank you.

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TRANSCRIPT

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MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Michael Knapp, President	
Councilmember Roger Berliner	Councilmember Marc Elrich
Councilmember Nancy Floreen	Councilmember George Leventhal
Council Vice President Andrews	Councilmember Ervin
Councilmember Praisner	Councilmember Trachtenberg



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1 COUNCIL PRESIDENT KNAPP:

2 Okay, good afternoon everyone. This is a public hearing on a resolution to approve a
3 County Guaranteed Bond Financing Plan for the Housing Opportunities Commission,
4 MetroPointe Apartments Development. Action is scheduled immediately following this
5 hearing. There are no speakers, so we will turn to action. But before we do so, I'll turn to
6 Ms. McMillan who has some clarifying remarks.

7
8 LINDA McMILLAN:

9 Just to clarify Action Clause 2 in the resolution, as introduced, did not have an amount in
10 for the total interest cost.

11
12 COUNCIL PRESIDENT KNAPP:

13 That's a problem.

14
15 LINDA McMILLAN:

16 That amount is \$1,481,701.

17
18 COUNCIL PRESIDENT KNAPP:

19 I'm sorry. Say it again one more time. One million...?

20
21 LINDA McMILLAN:

22 \$1,481,701, Action Clause 2. I also wanted to make sure that everyone was aware that
23 circles 13 through 52 of the packet are, in fact, the attachment that is noted in the
24 background clause 8, and they will be Exhibit A when the resolution is finalized and the
25 dates have been filled in regarding the public hearing and the information from the
26 Executive which was background clauses 9 and 10.

27
28 COUNCIL PRESIDENT KNAPP:

29 Okay. Any questions for Ms. McMillan? Seeing none, is there a motion to adopt resolution
30 to approve County Guaranteed Bond Financing Plan for HOC?

31
32 COUNCILMEMBER FLOREEN:

33 I'll move for this.

34
35 COUNCIL PRESIDENT KNAPP:

36 There is a motion, Councilmember Floreen, seconded by Councilmember Trachtenberg.
37 Is there a discussion on the motion? Seeing none, all in support indicate by raising their
38 hand. That is unanimous among those present. Thank you very much. We now turn to
39 what unfortunately is liable to be the first of a series of discussions on this issue. This is
40 the Introduction/Suspension of Rules/Action and the resolution to approve the FY09



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1 Budget Savings Plan. Do we need any votes to do for any of those things? Mr. Farber, do
2 we need any motions to actually get to the actual resolution itself?

3
4 STEPHEN FARBER:

5 Yes, you...

6
7 COUNCILMEMBER FLOREEN:

8 I'll move it.

9
10 STEPHEN FARBER:

11 Yes, you will.

12
13 COUNCIL PRESIDENT KNAPP:

14 All right, so we're moving introduction of the Budget Savings Plan, moved by
15 Councilmember Floreen. Is there a second?

16
17 COUNCILMEMBER ERVIN:

18 Second.

19
20 COUNCIL PRESIDENT KNAPP:

21 Seconded by Councilmember Ervin. We now have before us the Budget Savings Plan, as
22 presented to us by the County Executive and as modified by the various committees. I'm
23 thinking, we're all going to get to talk about this a lot in the coming months. We've just
24 heard from the Executive Branch as of yesterday that the \$251 Million hole that we
25 thought we had has since grown. We're still waiting to have that quantified completely,
26 and that will happen, hopefully, next Tuesday, when they come back and present a
27 modification of the Fiscal Plan. All we know right now is that it's bigger and worse. And so,
28 while those people who have reviewed this initially, thinking that this might be the only
29 time we come back to a Budget Savings Plan, I think, practically, this is the beginning of a
30 conversation that will be ongoing. And so, on the good side, as long as we're starting the
31 dialogue now, everybody's in the room, we'll just at least know who were talking to, and
32 we'll have a good relationship by the time the year is over. With that, let me turn it over to
33 Mr. Farber to give us a little background and then we will walk through committee by
34 committee.

35
36 STEPHEN FARBER:

37 As you said, Mr. Knapp, this is a first step. And really, in the scheme of things, a modest
38 first step. Finance Director Jennifer Barrett, who wrote the memo we received yesterday,
39 is here with us today and can speak to that memo. Although, as you said, Mr. Knapp, it's
40 next Tuesday that we'll have a comprehensive update of the Fiscal Plan from both OMB
41 and Finance. We frequently used savings plans, midyear savings plans in the past. In fact,



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1 the most recent one, as you recall, was only last January. That was the FY08 Savings
2 Plan, it was in the amount of about \$33 Million. This year, the Executive proposed a
3 Savings Plan of \$49.3 Million. What the committees have done, and we'll hear in detail
4 from the committee chairs in the moment, is to make recommendations of pretty much
5 what you did in January for the '08 Plan. The amount is very much the same in the range
6 of \$33 Million. The big difference has to do with MCPS. As you know, the Executive
7 recommended taking 1% of their budget, or \$19.4 Million. That was his target, there were
8 no specifications that he made because he was not in a position to do that. But he
9 suggested that as a target for MCPS. And MCPS, as Councilmember Ervin will be
10 reporting, indicated that with all the puts and takes that they have in terms of increased
11 enrollment pressures, fuel costs, but also the Savings Plan that they initiated several
12 months ago, we'll be able to come up with 3 Million. There's a \$16.4 Million difference.
13 With that to decide, the committees have actually, with respect to the rest of the Savings
14 Plan, the College Park and Planning, and County Government, produced savings that are
15 \$99,000 more than the County Executive did. And so, the total so far from what the
16 committees recommended, leaving the schools aside, is \$33 Million. About 77% of that
17 amount comes from County Government. And if there is going to be a Round 2, as there
18 was five years ago, because of fiscal conditions, that factor will have to be taken into
19 account because County Government clearly has had to step up to the plate big time with
20 respect to this Savings Plan. Besides if the problem we're dealing with is important, on
21 September 23, the last time the council visited the subject with Ms. Barrett and Mr. Beach,
22 the size of the problem was identified as a gap of \$251 Billion in Fiscal Year 10, the
23 coming year. And as Mr. Knapp and I talked about a number of days ago, we felt it would
24 be very important, particularly, before the recess begins, for the Councils to take an
25 updated look at that figure. And this because, as we already know, the world has changed
26 pretty dramatically in the last couple of months. We all know what's happening in financial
27 markets and the implications that that's has had for the real economy. And we see the
28 news every day. There's no need to go into that in detail right now. And from the revenue
29 side, Ms. Barrett reported yesterday on what some of the implications of the last couple of
30 months are, and Mr. Beach is now pulling together with Mr. Espinoza the expenditures
31 side. And then next Tuesday, the 2nd of December, we'll have a complete discussion of
32 where the Fiscal Plan appears to be at this point. As we know, every edition of the Fiscal
33 Plan is only a snapshot in time. The snapshot of two months ago turns out to be a long
34 time ago, but the snapshots do change and we have to keep up with them so that you're
35 in a position to make the best possible decisions. I think it's fair to say that this savings
36 plan is really a pretty modest step, it's a useful step. \$33 Million taken off the spending
37 base is obviously useful, but it is modest in the scheme things. A lot of the measures, as
38 you know, are pretty temporary measures. They involve lapse or operating expense or
39 projects that were ready to go quite as soon as folks thought they might. There are,
40 indeed, some service impacts. And those the committees have looked at very carefully,
41 they swallowed hard in some instances, they've rejected a few. But for the most part, this



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1 is not the kind of Savings Plan that we've seen, for example, in some other jurisdictions.
2 We know that in Prince George's, next door, they actually, in the current Fiscal Year, have
3 ten furlough days. And we've seen in the City of Atlanta; King County, Washington; and all
4 over the country other jurisdictions that are doing the same thing. Layoffs in State and
5 Local Governments are slow to materialize compared to what we see, the very bad news
6 coming out of the firm after firm in the private sector. But even the State of Maryland, in
7 the cuts made by the Board of Public Works last month, lopped off 800 jobs, and 40 of
8 those were actually filled. So there's the real layoffs. In Prince George's County, as you've
9 read, there's consideration of 400 to 500 layoffs in the coming year if they're not otherwise
10 able to come to grips with their Fiscal situation. And we're going to see growing patterns of
11 this kind around the country. On September 4, as you recall, the Executive advised the
12 Council that he was considering two days of furloughs. This was in response to the \$8
13 Million that, in May, you asked the County Executive to find in County Government. He
14 made the same request to the School Board and they promptly found the \$8 Million and
15 have moved on. With respect to the \$8 Million that the Executive was asked to find, there
16 were \$2 Million in savings that he was easily able to identify, and said that with respect to
17 the remaining \$6 Million, one option was two days of furloughs. He indicated back then
18 that he would be back to us, indicating what his specific plans were once there was more
19 revenue information. And we've not received an announcement yet from the County
20 Executive with respect to these furlough days, whether they will occur, whether they would
21 be more in his recommendation or fewer. And presumably, that information will be
22 forthcoming soon. In any event, the harder work is going to begin. We previously have
23 done an excellent job with the Savings Plan going through it. But we do have much bigger
24 challenges that will be forthcoming in terms of looking, as you said, Mr. Knapp, at what
25 our core services and our priorities as a County are and also trying to come to grips with
26 the big driving cost-drivers for the County which have to do with the cost and growth of our
27 programs, our workforce, and so forth. That's a summary, and now, I think we can hear
28 from the Committee Chairs. You have Addendum 1 and Addendum 2 to my packet, and
29 Addendum 1 summarizes with the help of our analysts of what each Committee did
30 starting with the Education Committee for the last few days.

31
32 COUNCIL PRESIDENT KNAPP:

33 Before we get started, though, I just have one follow-up for Ms. Barrett, if I could. In the
34 memo you sent over yesterday, and I think you alluded to this, but because we're still
35 trying to figure out the numbers, if I read it right, whereas was before, we were generally
36 saying, for our Fiscal Year '09, we are fine, we had been fine, or this savings was
37 generally going into savings for the funding of FY10 budget, if I read your memo right,
38 there may be some readjustments so that there may be issues that we actually have to
39 address as it relates to funding for this year. So the savings that we're looking at today
40 may not necessarily be exclusive just to rollover into savings for next year. It may in fact
41 actually be helping us get through this existing fiscal year.



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JENNIFER BARRETT:

Right. Since that last discussion, we did receive some November distribution which was \$31 Million down. And we'll present to you some more detail next week, but we would expect some further impacts on the February distribution especially related to the decrease in the stock market in the last quarter. So that does imply that whereas we thought we're okay on the revenue side now, some of the savings will have to help us in '09.

COUNCIL PRESIDENT KNAPP:

I just want to put that out there because that was different from the conversation when the Budget Savings plan first had come over, so... Okay, good. Thank you. And I guess I will just close as far as the preface for everyone, that this is going to be a difficult year. And I know that the Committees and the Agents or the Departments of the Agencies who have taken in the first step, what they've done here, don't do any of it lightly, and these are difficult decisions. And the Committees that have gone through these don't take this lightly, and I just think it's important that there are not going to be easy decisions. We're going to have to really, as we go through this in the coming year, really be clear on what our priorities are, and we're all going to have to continue to work together, but they're not going to be easy. And so, while there are going to be reductions that probably not everyone likes or, in fact, no one likes, there's going to be a lot of those. And we just need to recognize that we're in this together and it's going to be a challenge. And so, with that, I would turn to--what, primary?

COUNCILMEMBER FLOREEN:

Yes, yes.

COUNCIL PRESIDENT KNAPP:

Okay, Councilmember Floreen?

COUNCILMEMBER FLOREEN:

I just wanted to clarify for the record, really, for the public, what you told is in your memo yesterday, Jennifer. What you're saying is that you anticipate a budget gap now. You're not-- And it's just you're not certain, but you're looking at something over \$450 Million. Is that correct?

JENNIFER BARRETT:

We're looking at something in that neighborhood, but I also was referring to anticipation of possible additional State cuts which we don't have any definition for, which might take it even higher.



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1 COUNCILMEMBER FLOREEN:

2 So, but is the State cuts part of that \$450 Million?

4 JENNIFER BARRETT:

5 No. Only the ones we know about, and it's not precise. That's neighborhood.

7 COUNCILMEMBER FLOREEN:

8 Right. So, as of this moment in time, the base amount of cuts that we think we can
9 anticipate, or the base number of the gap, you think, is in the \$450 Million range, and
10 that's before the State takes any further action?

12 COUNCIL PRESIDENT KNAPP:

13 Right. Well, hold on just a second because I think it's important. They're still working on
14 the numbers. So what she has put in the memo is basically the shot across the bow that,
15 "Wait a minute, folks. Houston, we have a problem." They're working on the numbers,
16 going to come back to us with greater specificity on Tuesday. So I don't necessarily want
17 to have to get locked into a number today because she specifically didn't come up with a
18 number in the memo because they're still working on that, is basically saying we've got a
19 problem and any potential reductions from the State are going to be in addition to
20 whatever they're anticipating in the memo they already outlined for us.

22 COUNCILMEMBER FLOREEN:

23 Well, Ms. Barrett used those numbers, and that's why I just wanted to go all over them
24 with her, with the audience that we have in particular, so that it is understood.

26 JENNIFER BARRETT:

27 If you take the 250 gap that we had previously reported to you in September, which is
28 based on preliminary information, no actual revenue distributions, et cetera, and you add
29 to that what I'm seeing in terms of revenues, the outlook for revenues, and the State cuts
30 that we know of, then you get into that neighborhood and then there's the anticipated
31 State cuts. But even the 250 included certain assumptions that may or not be realistic,
32 and what we want to do next week is give you kind of a full picture of certain assumptions
33 and what the results would be and then what the challenge is before us. So we will
34 present that to you in a straightforward way next week.

36 COUNCILMEMBER FLOREEN:

37 I appreciate that, and thank you very much. I just wanted to get that on the record, so to
38 speak. Thanks.

40 COUNCIL PRESIDENT KNAPP:

41 Councilmember Leventhal?



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1
2 COUNCILMEMBER LEVENTHAL:

3 I wanted to ask Mr. Farber, what was the size of the reduction to the budget that the
4 Council had to do in 1991, and then what was the size in 2003?

5
6 STEPHEN FARBER:

7 Well, in 2003, I recall that the gap, the budget gap we faced was \$321 Million. And the
8 gap we're facing now, if you adjust upward for the larger size of the budget, it would be
9 comparable to that. In order to close that gap, that was in Fiscal '04, it was necessary to
10 raise pretty much every tax we have: income, property, transfer, recordation, telephone,
11 energy. In addition, there were major cuts to programs. And finally, as you recall in that
12 year, there was a four-month delay in COLAs for all Agencies. It turned out that even that
13 was not enough. And so, later, in Fiscal Year '04, we had not one but two Savings Plans,
14 and I think the lesson from that is that when things turned down as they did in the early
15 part of this decade, it takes a while for it to feed through the system to affect us,
16 particularly with respect to capital gains revenue which we rely on so heavily, it's about
17 15% of our income tax revenue. And that's good for us when the market is up, it's very
18 bad for us when the market is down. And it took 2 full years, really, for the downturn in the
19 early part of this decade to affect our revenue picture. But when it took effect, it really held
20 on. And so, we really had not only a very stringent FY '04 budget, but then, we had to
21 come back twice during that year and cut it still further. In the early '90s, we had
22 comparable figures, I don't remember exactly what the gap was. But in the early '90s, the
23 situation was extremely dire, there were large tax increases, there were large spending
24 cuts, there were three consecutive years in County Government of no pay increases, no
25 COLAs. And in addition, in '92, the situation was sufficiently difficult that the State
26 Legislature passed the Neal Amendment named after State Senator Bobby Neal, which
27 for the first time ever, permitted County Councils around the state to reach into the
28 Agency budgets, the schools, the College Park and Planning mid-year, which we're not
29 permitted to do ordinarily, to reduce those budgets. And that was a function of the difficulty
30 of the fiscal situation then.

31
32 COUNCILMEMBER LEVENTHAL:

33 Okay. But it's certainly-- The magnitude of what we're looking at this year, I mean,
34 obviously you'd have to adjust for the size of the budget, as you say, you have to, you
35 know, deal with inflation-adjusted dollars, et cetera. But it's certainly greater than what we
36 face in 2003, I was here then. And it's comparable or possibly greater than what we were
37 facing in the early 1990s as well. So, you can say that what we're facing in terms of the
38 need for budget cuts is the worst situation we've seen in decades.

39
40 STEPHEN FARBER:



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1 Well, it certainly ranks way up there and I think, by some measure, it is. I guess, there's
2 one further point of importance. In 2003 and 2004, the Council had tax room and was able
3 to raise taxes and did so. That is not the situation now. There is not going to be a tax
4 solution in the coming year.

5
6 COUNCILMEMBER LEVENTHAL:

7 We're at the limit on income tax, and I don't sense that there's any appetite from the
8 Executive Branch nor do I sense that there is appetite on this side of the street for cell
9 phone tax, energy tax, property tax increases. I don't sense that there's any appetite
10 there. So what we're going to be involved in today and in the next few months is making
11 deep cuts to agency budgets. And so, to all those constituents who are emailing all of us
12 to say, "You all need to rein in spending, you need to curb your appetite for spending,"
13 buckle your seatbelts, that's going to occur. Those who think we don't understand, that we
14 don't understand the need to rein in spending, will find that changes are going to be made
15 in what they expect from County Government. They're going to find that the grass is cut
16 far less often in the parks and at County facilities. They're going to find pretty significant
17 changes in their children's classrooms. They're going to find significant changes in hours,
18 that perhaps we don't know yet, of rec centers, libraries. In this package we're approving
19 today, we're seeing the elimination of ride on bus routes, we're seeing changes to the
20 number of Police Officers we're able to recruit to keep neighborhoods safe, I mean, and
21 this is just the beginning, this is a very small package. So those who are writing and
22 calling us saying, "You don't know how to cut spending, you need to try to cut spending,"
23 are going to get their wish. And in the next several months, what I think the public doesn't
24 do is I don't think the public distinguishes among elected officials, really, as in County
25 Government, you know, Local County Government, as to who the good guys are and who
26 the bad guys are. If they're happy what the County Government is doing, they'll be happy
27 with us. If they're unhappy, which is much more likely, they'll be unhappy with us. I don't
28 think that it is possible for any one of us to look good at the expense of the others. I think
29 we've all got to work together, communicate with each other, try to avoid sending out too
30 many press releases, and just work through this, put our heads down and get through the
31 next several months, all ten of us, the nine of us in the County Executive, because it's
32 going to be a very, very rough ride. And it will only be rougher if we unravel and try to
33 glorify any of us at the expense of any others because there's no happy outcomes here,
34 there's not going to be any happy outcomes over the course of the next few months.

35 Today is just the beginning.

36
37 COUNCIL PRESIDENT KNAPP:

38 Councilmember Elrich?

39
40 COUNCILMEMBER ELRICH:



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1 Have you begun to track any changes in the going value of commercial property? Are we
2 looking at monthly reports?

3
4 JENNIFER BARRETT:

5 I'm going to ask David Platt to come forward, our economist. We did an economic
6 indicators presentation just yesterday to the MFP, and I think we had information on
7 residential, but you're asking specifically about commercial property valuation.

8
9 COUNCILMEMBER ELRICH:

10 I'm especially concerned about the commercial because in the '90s, what happened was,
11 with the higher vacancy rates and the recession, there was a flood of applicants to the
12 Assessor's Office, and the County lost about \$500 Million in assessable base in the blink
13 of an eye, as people went in and said, "My rents aren't as high, my vacancies are higher, I
14 need a reassessment." And homeowners, of course, don't get that because you can't walk
15 in as a homeowner and say, "Am I making as much money? Reassess my house; we're in
16 a different situation." So I'm especially concerned about our property tax projections to the
17 extent that changes in commercial can affect that.

18
19 ROB HAGEDOORN:

20 No, I agree. I think it's fair to say that depending upon what SCT comes out with in the end
21 of December with the assessment cycle, and what the reassessment is going to be for
22 commercial property was sort of appeal, was sort of a spike we're going to see in the
23 number of appeals. The way commercial property is assessed can be either, of course,
24 property value, it can be income-based. But one way or the other, if the economy
25 continues to slide as it is now, it's quite likely you'll see deterioration in the commercial
26 base. That's true.

27
28 COUNCILMEMBER ELRICH:

29 And would you see that in this tax year, or would that be something we would see in year
30 two?

31
32 ROB HAGEDOORN:

33 Well, it really could start as of July 1st, 2009, when the cycle is being now reassessed,
34 that will go into effect for the next Levy Year, 2009. And we don't know that yet. We don't
35 know what's happening with the number, but it's quite likely to be either a very small gross
36 or a decline, as we are anticipating with the residential properties.

37
38 JENNIFER BARRETT:

39 Rob, do you want to clarify the difference between the homestead cap as it pertains to
40 residential property versus commercial property when we don't have the--
41



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1 ROB HAGEDOORN:

2 Yeah, first of all, the triannual assessment cycle, each property is assessed every three
3 years. And so, the County is split up, each County. The County is split up into three
4 different areas, and the area-- I think it's number 3, Group 3. Group 3 is going to be
5 reassessed this year, and that's going to go into effect for Levy Year 2009, which starts on
6 July 1st of next year through June 30th of the subsequent year. Any increase will be
7 phased in over a three-year period. Any decline, however, goes into effect in the first year.
8 And that is one of the reasons why are a lot more--that the outlook is somewhat more
9 dismal when you consider residential properties because any decline, we will notice as of
10 July 1 to 4. If it goes down 15%, it's the first year it goes down 15%. There isn't
11 homesteads credit for residential owner-occupied properties, so when a property
12 assessment increases more than 10%, the excess over 10% goes into a homestead
13 credit. That is good for the homeowner, of course, at times when they go less than 10%.
14 The homestead credit also creates a buffer for the County because it just spreads it out
15 over a long period of time. Commercial property and rental residential properties don't
16 have the homestead credit. So that's why, of course, they experience also the immediate
17 increase but at the same time, there's also a buffer with respect to that group if there's any
18 decrease.

19
20 COUNCILMEMBER ELRICH:

21 Okay.

22
23 ROB HAGEDOORN:

24 Does it make sense?

25
26 COUNCILMEMBER ELRICH:

27 Yeah.

28
29 ROB HAGEDOORN:

30 Okay.

31
32 COUNCILMEMBER ELRICH:

33 Yeah. I'm very concerned with how that is going to wind up tracking at the end of the day.
34 I think George's comments are well-placed. I would encourage the Executive to work very
35 closely with the County employees because there's no doubt that there's going to be a
36 significant hit. Certainly in wages, I don't know how this is going to get avoided. I think
37 everybody knows that's, you know, the 800-pound gorilla that's sitting in the room. But
38 wage cuts alone are not going to close this gap, and I think it's absolutely critical that we
39 work with the people who work in the County to identify the right place to make the cuts.
40 And some of us have talked about our concerns about across the board cuts or
41 percentages here or there that apply to everybody and that, you know, we really need to



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1 look very closely at what works, how many people it takes to make something work right,
2 and to make sure that the people who were going to be left running and actually carrying
3 out the day-to-day work in the County are part of the decisions and certainly looking at,
4 you know, how best to restructure us to maintain as many of the services as possible. But
5 I do not look forward to the kind of cuts in services that we're going to make. I mean, I
6 hate to think that if all we did was reduce library hours, when we'd walk away from this,
7 we'd all be smiling. We're not talking about reducing library hours, we're talking about
8 fundamental cuts in Health and Human Services and a lot of other things that this number
9 goes to \$500 Million or more. And it's going to be more than painful, it's going to be
10 downright difficult for some people to get by without the safety nets. I feel very strongly
11 that we need to figure out how to do as much cutting as we can possibly do while
12 maintaining as much of the mission that the County has. I don't think anybody up here
13 thinks that we shouldn't be trying to help the people we help and do the things we do. I
14 think that we all recognize that we don't have the money to spend, doing it at the level or
15 with the resources, human and otherwise, that we have been putting into it. But I really
16 hope that the emphasis is kept on maintaining as much of that net as we can possibly
17 maintain because this is going to be hard for government. It's going to be hard for
18 everybody else sitting around. And we really are going to have to work together.

19
20 COUNCIL PRESIDENT KNAPP:
21 Councilmember Trachtenberg?

22
23 COUNCILMEMBER TRACHTENBERG:

24 Thank you, President Knapp. I don't think any of us were certainly surprised with the
25 memo that was received by all of us yesterday. It completely is in line with many
26 conversations, certainly conversations that we've had within the Management and Fiscal
27 Policy Committee that I'm chairing. You know, what I want to put out there is that we
28 obviously know that we must be prepared. However, we still don't really fully understand
29 the extent of what's happening nationally and in the State and the consequence of all of
30 that. And I might also submit to my colleagues that the consequence of that is not going to
31 necessarily be clear for the public for at least another year. And so, there's no doubt that
32 the challenges that we face are long-term, multi-year and probably lasting well beyond
33 next year's budget cycle. And that's a sobering thought because we're going to have to
34 get there this year, but we're going to have to get there next year, too. And I'm just going
35 to keep my fingers crossed and hope that next year isn't any more painful than this year,
36 but that might be too much to ask. You know, I really think that the task before us is one
37 around priority setting. That's the real test before this Council and before the Executive,
38 that's the hard conversation for all of us to have over the next few weeks and months, and
39 we've gotten a preview of that clearly in the last week or so with the Savings Plan that was
40 provided to us. We obviously depend on the excellent Fiscal Team advice that we get. We
41 depend on the Council Staff here, including Mr. Farber, who always does an excellent job



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1 of keeping us informed of everything that's going on out there. But I would, again, suggest
2 to my colleagues that it's a new day. And as Marc suggested, the only way we really are
3 going to get there in May and probably next May is if we're all working together. And I
4 would hope that as we set priorities, one of the priorities that remains is investments
5 around people, because I very much believe that that's where a great deal of vulnerability
6 exists, that, you know, the County Government is struggling and in a bad place. But
7 clearly, a lot of people out there are in a difficult place as well, and the population is only
8 going to explode. That's my gut, based on what I'm hearing, certainly from my own staff,
9 that we are bombarded with calls from people who are getting evicted, losing their homes,
10 needing Health and Human Services and even different services for their children. And,
11 you know, it's when times are tough that you've got more people in need and more people
12 coming to County Government, so I would hope that as we do that priority setting in the
13 weeks, months, and years ahead, that people remain one of our top priorities.

14
15 COUNCIL PRESIDENT KNAPP:
16 Councilmember Berliner?

17
18 COUNCILMEMBER BERLINER:

19 I think Councilmember Leventhal and my colleagues have articulated the dilemma we're
20 facing, and the environment in which we're not raising taxes and have to close a budget
21 gap of \$450 to \$500 Million. We're in a world of hurt. And if at the same time, as I believe
22 is going to be the role of this Council, we take care of those who are in those most dire
23 straits. Because now we have more people, our safety net has to not just be preserved, it
24 has to be strengthened because there are more people that are going to be relying on that
25 safety net. So, we really have to do an amazing reorientation if we are going to strengthen
26 the safety net and make cuts of this magnitude. It's not going to be pretty, it's not going to
27 be easy, but it is our task. I had asked the director, our fine director of HHS, to prepare an
28 emergency safety net budget. I think we're going to need that kind of guidance from the
29 Executive, given the increased demands on our food shelters. I mean, that's why we got
30 these canned goods here to remind us we've got more people calling upon our food banks
31 than ever before. More suicide hotline calls than ever before. More first time women in
32 shelters, homeless shelters for the first time, all in this last quarter, and it's going to get
33 worst, not better. So in these kinds of ugly times, we have to both cut and reorient if we're
34 going to fulfill, I believe, our moral obligation to this community. So it's not going to be
35 good, but I do feel that there is a common view here. And my hope is, in working with the
36 County Executive, we can arrive there collectively.

37
38 COUNCIL PRESIDENT KNAPP:

39 Let me just follow up one more point. I know the Executive Branch is, in fact, meeting with
40 all the other core organizations and everyone is at the table right now talking about various
41 things. So everyone's talking to each other. "At the table" may not be the right vernacular



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1 for people to address, but everyone is talking to each other. And so, I think, to Mr. Elrich's
2 point, I think everyone is communicating and that is a part of the dialogue. So, and I think
3 everyone is engaged, but I think, you had a point of where the ideas were getting from
4 there, not just talk about things like COLAs is important, you know, what are folks on the
5 front line looking at and what ideas do we get that they bring to the table. Okay, with that,
6 let's actually turn of the plan in front of us. The Education Committee is up first.
7 Councilmember Ervin?

8
9 COUNCILMEMBER ERVIN:

10 Thank you very much. The Education Committee met and discussed Montgomery College
11 and Montgomery County Public Schools Savings Plan. I'll start with Montgomery College.
12 The Executive recommend the savings from the college of \$2.6 Million which represents
13 2.5% of the County contribution. However, the college may have to reduce its FY09
14 spending by an additional \$4.9 Million due to potential State cuts for a total reduction of as
15 much as \$7.6 Million because of other shortfalls in revenue which are detailed on circle 48
16 of the packet. Because of the other reductions that the college will have to make, the
17 Committee recommended savings in the amount of \$2.1 Million which is 2% of the County
18 contribution. The Committee, recognizing also that this is the first round of reductions that
19 we'll probably have to take, so we all concurred with our final recommendation of \$2.1
20 Million reduction for Montgomery College. Moving on to MCPS, as part of their FY09
21 savings plan, the County Executive recommended a savings target of \$19.4 Million. First
22 Quarter numbers show that the school system has already identified \$3 Million in savings
23 which the Education Committee recommended taking at this time. The Committee also
24 instructed MCPS to continue to work aggressively toward achieving greater savings over
25 the course of the Fiscal Year and the Committee fully expects MCPS to come back to us
26 with a total of at least another \$10 Million in savings. We know that there negotiations
27 ongoing with the school system's unions, we hope to hear something very soon upon
28 returning from our break. And also recognizing that as you've already heard many other
29 councilmembers speak this afternoon about what this will actually mean when the
30 hammer really does come down, you know it's coming, that the class size reduction that
31 we all fought very hard for is on the table. There may be layoffs, that's on the table, and
32 we still await the outcome of the bargaining process with the public schools and the public
33 school unions. So this is our first bite at the apple, I know that I've already heard from
34 some folks across the street that we're letting MCPS off the hook. I remind you that that is
35 absolutely not the case, we took this \$3 Million savings for now, and we are aggressively
36 pushing them to come back to us with at least \$10 Million more dollars in savings.

37
38 COUNCIL PRESIDENT KNAPP:

39 I would just add that one other element that we're waiting to see is there have been the
40 concept identified that when the State comes back with a second round of budget cuts,
41 the Board of Public Works approves those either in December or January, that the



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1 Geographic Cost of Education Index which there have been two things, either that it's
2 eliminated for this current year or is cut in half which would total either \$9 or \$18 Million
3 respectively, which will go directly to the school system is another piece that we're looking
4 at, figure out what that does because that would obviously have an impact on where we
5 stand as far as the savings that we would be able to achieve locally. Is that fair?

6
7 COUNCILMEMBER ERVIN:

8 That's it.
9

10 COUNCIL PRESIDENT KNAPP:

11 Okay. Comments on the school system or on Education Committee? Councilmember
12 Floreen?

13
14 COUNCILMEMBER FLOREEN:

15 Thank you. I do appreciate the work of MCPS so far and the work of the Education
16 Committee on what is just going to be a dreadful, dreadful year, not knowing what's
17 coming from the State level, that certainly is going to make it extremely difficult. And I'm
18 glad that you are pushing them on additional savings and I know that there will be the
19 change with 1600 additional children who've turned up at the schools' doorstep this year
20 that they didn't anticipate, and they've got a hiring freeze. I'll just note that last year, MCPS
21 was looking at a \$1.3 Million deficit and, well, because of everyone's hard work, were able
22 to end up with an \$18 Million savings surplus. We're going to need something probably
23 well beyond that this year, and I don't know how it's going to happen. But MCPS is half of
24 our budget, and it's not just going to be-- you know, the issue of priorities, it's deeply felt,
25 priorities, by all of us. But MCPS is going to have to work with us on this, and I appreciate
26 your leadership, Councilmember Ervin, and don't look forward to hearing your bad news.
27

28 COUNCIL PRESIDENT KNAPP:

29 Councilmember Leventhal?
30

31 COUNCILMEMBER LEVENTHAL:

32 Well, I agree with Councilmember Floreen. This morning, I had the pleasure of attending
33 the ceremony at Eastern Junior High School, and my son, Daniel, is one of the Students
34 of the Month. So, all of the parents who were invited by the Principal to attend the
35 Students of the Month ceremony had to wait in the office while we were checked in with a
36 brand new technology that reads driver's licenses in order to improve security. So this
37 wonderful technology which is supposed to ease your admission to the school will
38 increase by a factor of 10 the amount of time you have to wait to get a sticker to show that
39 you're an actual guest in the school. I don't know whether that driver's license reading
40 technology had to be implemented in 2008. It has been. I know that the school system is
41 making a lot of investments in technology that maybe can wait. Maybe when we are in



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1 crisis we don't have to do all of these things in 2008 or 2009. The problem we have with
2 the school system is, we really have access to very good information and it's a very
3 dramatic difference between what the County Executive recommended and what the
4 education Committee recommended. On the other hand, the County Executive's number
5 was just a percentage. "Find me 1%, that's it. I don't know where you'll take it from." And
6 we don't really know where they would take it from and what they came back and told us
7 apparently was, "Well, you know, that's not a scientific way of going through the school
8 system budget, and we can't just find 1% and I don't like across-the-board plug numbers."
9 I don't think that's the way to budget, but I agree with Councilmember Floreen. We have
10 got to have transparency within what the school system does and some initiatives are
11 going to have to wait. They are going to have to be slowed down. That applies to every
12 agency, but we can't be in a situation where all of the cuts come out of County
13 government and not out of the school system. And, as I say, it's very difficult to take one
14 example of something and then generalize, and I don't claim to have great knowledge of
15 the school system budget. That's part of the problem. It's not easy to get great knowledge
16 of the school system budget from where we sit. We have to appropriate large dollar
17 amounts. But that driver's license reading machine didn't work all that well and probably
18 hasn't much improved the school security. And in fact they are using it to restrict the
19 activities of the wrong people. The parents of the kids who are coming into the office are
20 presumably not the problem and yet we are the ones being subjected to this new,
21 presumably expensive technology while the schools are fairly porous and open and other
22 potentially bad actors might have access to school grounds. So, it's just one example, but
23 I call on the school system to take a look at its upcoming capital expenses, technology
24 expenses, nice-to-have types of things, devices, gadgets, things that maybe can wait--
25 [Ringtone playing] Speaking of devices and gadgets, some of these things are going to
26 have to wait. Some of these things are going to have to wait. Some of these equipment
27 purchases are going to have to wait. In the school system and the fire and rescue service,
28 in information technology, Department of Technology Services, and the Police
29 Department, libraries, parks, some of these big purchases are just going to have to wait.
30 We're not going to be able to make them in the coming year or two.

31
32 COUNCIL PRESIDENT KNAPP:
33 Further discussion, Councilmember Elrich?

34
35 COUNCILMEMBER ELRICH:
36 I would like to dovetail on that and just urge the school system to focus on the cuts at the
37 administrative side, frankly. I mean, the classroom is the last place, particularly class
38 sizes, the last place that we ought to hit. As much as we are going to try in the rest of our
39 budget to avoid impacts on the people to whom we deliver the services to. As a former
40 teacher--I have talked to any number of teachers--I would rather have an administration
41 learn to live with fewer administrators than ask classroom teachers to try to get the job



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1 done in the classroom with fewer teachers. I mean, I think most teachers would agree that
2 if the cuts had to be made, they prefer to take them on the inside of the building of the
3 central office rather than in the individual classrooms. And I think also it's worth discussing
4 because we got into this late last year, and I think it's important to remember this, that a lot
5 of what we are going to cut affects children and their families. And the debate we do not
6 need this year is that if you cut anything in the school budget, you're hurting children. And
7 so, please, take all of these cuts on the side of the general government where we'll get cut
8 the health care and we'll cut all kinds of other programs that hurt children. And much of
9 what the County does is basically to aid families and children, and that to save money on
10 one side is going to have impacts on the other side. So this is not a proof of how much
11 you love children based only on funding of the school budget. We show our concern for
12 children in lots of different ways, and we need to take the approach that we're going to
13 look at everything we do and not just hold one area off limits.

14
15 COUNCIL PRESIDENT KNAPP:

16 Okay. We now turn to Health and Human Services. I turn to Chairman Leventhal.

17
18 COUNCILMEMBER LEVENTHAL:

19 Okay, I'll go through some of these fairly quickly. We approved almost all of the reductions
20 recommended by the Executive with just a few exceptions. We did not approve the
21 reduction in the supplement to providers of services to the Developmentally Disabled for
22 \$175,000. We felt that this reduction would be too great a burden on the nonprofit
23 organizations and would have an effect on worker retention and turnover. We had a
24 promise from two committee members that they would comb through other areas of the
25 County government budget, and Ms. Trachtenberg, Chair of the MFP Committee, will be
26 discussing later how she found savings that exceed the \$175,000 that we did not approve
27 here. On the Montgomery Cares Program, we reluctantly agreed to a reduction of
28 \$510,000. We asked the director of the department to assure us that patient care would
29 not be reduced and that the number of patients that may enroll in Montgomery Cares
30 would not be capped. For the Rental Assistance Program, we recommend that the funding
31 for this program be maintained. We just heard from Director Al-Awalya????? that there is
32 a dramatic increase in the numbers of families that are applying for emergency shelter.
33 We have a record number of families now being housed in motels at taxpayer expense.
34 But rather than funding it through the general fund, we thought it was reasonable to shift
35 the cause to the Housing Initiative Fund so that there would still be a savings of \$250,000
36 in the operating budget, but there would not be a reduction in Rental Assistance Program
37 subsidies. We agreed with a relatively small reduction in the budget for the Commission
38 for Women, reducing the amount of time for a program specialist one. And if
39 councilmembers have questions, they can stop me. I have already addressed the
40 Developmentally Disabled. Sadly, we agreed to end to chore services for 48 elderly
41 vulnerable clients who are not able to shop and take care of themselves, take care of



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1 household chores. Forty-eight fewer clients will receive those services as a result of that
2 cut. We understood that because of the State payment ratio that we need not to provide a
3 \$50,000 match for senior assisted group homes. There is a lapse, several lapses, that
4 achieved savings. One was in of the services of a dental hygienist. The YMCA After-
5 School Program is being reduced as a result of a change in the staffing ratio. Montgomery
6 Cares, I have already addressed. I'd be happy to take questions about it. There is a shift,
7 an increase in the caseload of a County psychiatrist for children in need of mental health
8 services and so, therefore, a contract is being terminated. That does mean increased
9 caseloads for the psychiatrists who are handling these cases, and we'll continue to
10 monitor that very carefully. Again, lapse enabled us to achieve some savings in the
11 Outpatient Addictions Program in the amount of \$22,470. We needed fewer lab services
12 in Behavioral Health and Crisis Services for a saving of \$6,000. We continue to get a
13 substantial amount of donated medications from the pharmaceutical industry through the
14 Medbank Program, and therefore, we saved \$40,000 in pharmacy assistance in the
15 Behavioral Health and Crisis area. The Residential Mental Health Fund is just a surplus of
16 \$35,000. We don't need it. Rental assistance, I have already addressed. Moving now to
17 page 8 on the Human Rights Commission. There were two major positions that were
18 unfilled for some period of time, enabling us to take a savings in lapse above that amount
19 that we budgeted earlier this year. And in Public Libraries, we took a major reduction in
20 library materials. The library director assures us there will be a great effort to assist library
21 customers with online research and that materials may be available electronically even if
22 we are not purchasing hard copies. We'll also seek to provide prompt assistance if you go
23 to one branch and the book or magazine that you need or reference work is not available,
24 that there would be prompt transfer from other branches in the system. But more than
25 three quarters of a million dollars in savings from library materials. Also an operating
26 expense reduction of \$142,400, and again, some lapse and some personnel shifts
27 amounting to \$50,000. So, those were the savings that the Health and Human Services
28 Committee recommends to the full council.

29
30 COUNCIL PRESIDENT KNAPP:

31 I see no questions. Thank you very much. We now turn to the MFP Committee, Chairman
32 Trachtenberg.

33
34 COUNCILMEMBER TRACHTENBERG:

35 Thank you, President Knapp. Well, we spent about an hour and a half laboring over the
36 recommendations from the Executive, and we approved... If you look on the addendum
37 that's been provided, page three, we approved for the most part savings that had been
38 recommended across discipline, again, starting at the County Attorney's Office and going
39 to the Office of Management and Budget. For the most part, I'm not going to go into any
40 detail on these cuts. They really speak to some lapsed positions and also reduction in
41 staffing across the board that really were pro forma, so we don't need labor too much on



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1 them. But what we decided to troll and really spend a great deal of effort on was really
2 trying to realize and locate other savings, specifically in technology areas. So, we went
3 from the \$1.1 Million that had been recommendation by the Executive and expanded that
4 to \$2.2 Million, again, recognizing the awesome responsibility before us but also
5 recognizing that indeed there would be some ways to realize savings specific to
6 investments around equipment, and also just delaying the hiring for different vacant
7 positions. So, if you look down the list, there was a recommendation from the Executive
8 initially for savings of \$269,750. Again, delaying of the hiring for five vacancies, and we
9 asked if we could expand that with five more vacancies not being filled for a total of 270.
10 So, that is the unanimous committee recommendation. We did it again with another
11 category around technology services, a different level of support and we expanded the
12 initial \$293,000 by \$250,000 more. And the big-ticket item that we discussed at length was
13 delaying the purchase of 500 personal computers with a price tag of about \$650,000. That
14 was going to be in addition to the \$178,410 that was originally sent over to us by the
15 Executive Branch. Again, these were not easy decisions, but what we decided was that it
16 is going to push us in the right direction. This was an area where I certainly had had
17 feedback from different colleagues asking me about the desktop modernization project as
18 well as the technology modernization that's a little bit more intricate, and we took those
19 requests, at least I did, seriously. And I appreciate the support of both Councilmember
20 Ervin and Councilmember Praisner in exploring this in conversation and coming to some
21 decisions. What I would also share with colleagues here and the general public is that we
22 are having a conversation on December 1st next week around the strategic planning for
23 the technology department. So we expect to have, again, a more substantial dialogue
24 then about some of the other things that can be done down the road. We also will be
25 having a work session with the MFP on January 15th where we're going to be talking
26 about the budget for the technology modernization, and that would include the
27 investments that clearly we have made in recent years to both the MC Time Project as
28 well as the MC3-11. And one of the items that had come up yesterday in conversations,
29 the potential for perhaps merging them with the ERP initiative. That's also something that
30 we have put a significant amount of money into last year. Again, we recognize the
31 significance of the technology investments that need to be made. I want to thank the
32 department that participated in yesterday's conversation. I know it wasn't a happy
33 conversation, but I think there was certainly a recognition by the end of the discussion that
34 these are the kinds of hard decisions that we are going to have to entertain in the weeks
35 and months ahead. So again, the recommendation from MFP was to accept all
36 recommendations from the Executive and add an additional \$1.1 Million.

37
38 COUNCIL PRESIDENT KNAPP:
39 Councilmember Berliner.

40
41 COUNCILMEMBER BERLINER:



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1 I just want to commend the Chair of MFP Committee, my colleague. I think the choices
2 that that committee made enables us to make the kind of a tradeoff that we spoke of
3 earlier in the HHS Committee, in which we said to ourselves it is between taking dollars
4 out of the Developmentally Disabled, a small pool to begin with, and the volunteers that
5 we are going to be relying on more and more to do the services that our community is
6 going to need versus computer upgrades. I'm sorry. We just-- This is one of the changes
7 that we have to make, one of the reorientations in our priorities. And I know the Chair is
8 going to look very closely at our technology dollars because we are planning currently on
9 spending huge amounts of dollars to improve the efficiency of our County government,
10 something that we need to do. But we are talking about millions and millions of dollars at a
11 time when we have people that are in desperate need of help. And we may need to put
12 the pause button on those kinds of expenditures, not because we don't want to have
13 increased efficiency, but in this particular climate it's just going to be very hard for folks to
14 understand how we can spend those kinds of dollars and not spend the dollars on the
15 people who need it the most. So, I commend you for your leadership and I think-- Well, I
16 commend you on your leadership.

17
18 COUNCIL PRESIDENT KNAPP:
19 Councilmember Leventhal.

20
21 COUNCILMEMBER LEVENTHAL:
22 Well, I, too. I think the MFP Committee has raised some very important questions here,
23 and I'm trying to understand. I'm trying to follow here on the packet on the 3-1-1 program.
24 I see the question here that, could the 3-1-1-- "Is it possible to consider the postponement
25 of one or more of ERP 3-1-1 and MC Time projects?" Did we get an answer to that?

26
27 COUNCILMEMBER TRACHTENBERG:
28 Well, actually, George, we are waiting on the response to some very specific questions
29 that were provided by Dr. Torgas?????, who works with the MFP Committee. And the
30 reason I had raised the two work sessions, one coming up next Monday around the
31 strategic plan for DTS and then the one in January that we'll specifically talk about the
32 tech month project, we expect, we anticipate more conversations with the MFP the next
33 few weeks and months to answer exactly what, you know, we've raised this afternoon.
34 That's one question out of a series of at least a dozen, because clearly an option on the
35 table here is to merge some of the investments, but also to delay some of the
36 investments. So, we'll get an answer but not today. We don't have--

37
38 COUNCILMEMBER LEVENTHAL:
39 I understand. I understand, that's fine. Now, I'll be interested to hear what learn there. I
40 think, you know, this is one of these areas where we're going to have to have a dialogue
41 with the public and they got to understand. Again, we are getting these messages where



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1 people say we all need to spend less. And New York City has a terrific 3-1-1 program. The
2 District of Columbia is trying to implement one. We need to get into some kind of
3 conversation with the public. If you want us to spend less, we might not be able to provide
4 you with this really cool service. It would be a cool thing to do. It's very expensive, it's very
5 new and people need to understand that this is the kind of thing that might have to wait. It
6 might have to be deferred. I understand the MFP Committee is way ahead of me on this,
7 but I'm just looking at the packet and appreciating your work.

8
9 COUNCILMEMBER TRACHTENBERG:

10 No, I appreciate that. And again, I did tell you we are going to try to find the 175 for the
11 services.

12
13 COUNCILMEMBER LEVENTHAL:

14 You did more than that.

15
16 COUNCILMEMBER TRACHTENBERG:

17 And we did deliver.

18
19 COUNCILMEMBER LEVENTHAL:

20 You did more than that.

21
22 COUNCIL PRESIDENT KNAPP:

23 Okay. Thank you very much. We now turn to Planning, Housing, and Economic
24 Development, which is also on number 10-D, in addition to the changes you see in the
25 packet... [Indistinct] The accepted recommendations from the Board of Appeals,
26 Economic Development, Housing Opportunities Commission, Silver Spring Urban District,
27 Wheaton Urban District and Zoning and Administrative Hearings accepted the
28 recommendations from the County Executive. We also accepted the recommendations for
29 the Department of Housing and Community Affairs, and we're sort of increasing lapse and
30 denying some positions as it relates to code enforcement. We concurred with Housing
31 and Services Committees that related to the Rental Assistance Program and using
32 resources from the Housing Initiatives Fund. In the area of Department of Recreation, we
33 accepted the reductions as proposed, recognizing that, as Mr. Leventhal had correctly
34 pointed out, these are the things that people are going to see. One of the things was
35 elimination of Spring Softball for Girls. We are scaling back aquatic programs and
36 facilities, summer fun centers. These are things that are out there that the community is
37 used to seeing. The one change that we did not accept was, because it was, in the words
38 of our predecessors, the juice within the periods we have to squeeze, was a proposal to
39 reduce hours at Seniors Centers which would have required them being close for three
40 days and saved a whopping \$1,420. So we decided that it may, in fact, be more
41 worthwhile to keep those three days opened for the seniors in those communities. So that



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1 was the only thing that we did not accept in that department budget. The other thing were
2 the somewhat significant reductions to the Sports Academy programs. We accepted the
3 changes, or we accepted the proposal, for the regional services centers which effectively
4 was the initiative that the Council included in the budget for the emerging communities.
5 So, I know it's going to be important for the Council as we look forward to make sure that
6 we are looking across these budgets, not just within the things that the Council has
7 included in their budget for some of these programs. And those are the various elements
8 that we looked at and we are approving of. We also looked at the Park and Planning
9 budget and Park and Planning, there was a proposal. If you look in addendum we
10 received today from Chairman Hanson outlining their proposal, it's a targeted savings of
11 \$2.4 Million. And again, as Mr. Leventhal correctly pointed out earlier, these are the things
12 that people are seeing. Our parks department has ponied up a lot of money over the
13 course of the last two budgets, and they are delaying a number of things that people see
14 in our parks on a daily basis. One of the things we're actually going to go back and look at
15 is a Smart Parks program which actually enables them to operate more efficiently and
16 make sure that they are spending time and effort in the places where it's most needed.
17 And then I want to go back and revisit that and see if there is another reduction they could
18 take that allows the Smart Parks program to stay intact so that they could in fact work
19 more efficiently to address what needs they can address. And those are the elements that
20 are out there.

21
22 COUNCILMEMBER ERVIN:

23 I do have a question.

24
25 COUNCIL PRESIDENT KNAPP:

26 Councilmember Ervin?

27
28 COUNCILMEMBER ERVIN:

29 Yeah, I have a quick question about the decreasing the cost for the Youth Sports Program
30 and specifically the piece in here that speaks to girls softball. How much will it cost to
31 reduce or to put back in girls softball?

32
33 COUNCIL PRESIDENT KNAPP:

34 What we talked about was, and we had a commitment from the department, they felt that
35 there was a way that through volunteers, they could actually keep this program. They
36 thought they can keep most of this program running. So, they're going to go back to let us
37 know how they can implement it given what they had, the remainder of a staff that were
38 actual rec department staff folks but they could actually keep the program operational
39 using the volunteers, and they've already got the equipment. So, it's just a matter of being
40 able to link the equipment up with the teams. And so, they're going to try and go back and



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1 put a program together. So, we're going to see if they can keep that going through
2 volunteer capacity. Councilmember Trachtenberg?

3
4 COUNCILMEMBER TRACHTENBERG:

5 There are no boys softball teams. They specifically said it's girls softball. I just wanted to
6 clarify that.

7
8 COUNCIL PRESIDENT KNAPP:

9 Right. And the reality was that the boys... And we talked about trying to do a lot of this
10 through private contractors or the private organizations, and boys' baseball always was
11 done that way. The department of Recreation doesn't administer boys baseball because
12 we already have league in the community.

13
14 COUNCILMEMBER TRACHTENBERG:

15 Yeah. They're sensitive up here because back in the days when we were growing up, we
16 didn't have much of a choice. Yeah I got to tag along with my brother.

17
18 COUNCIL PRESIDENT KNAPP:

19 As father of two daughters, I am also very sensitive to that and to make sure there are
20 opportunities for girls in our community. Okay, further questions on the PHED committee
21 recommendations? Seeing none, we now turn to Public Safety. Vice President Andrews?

22
23 COUNCIL VICE PRESIDENT ANDREWS:

24 Thank you, Council President Knapp. The committee met twice, we met last Thursday and
25 we met again yesterday at lunch. And I'm looking at the room and I see a lot of people
26 who were helpful to us, attending the meetings and contributing suggestions. So, I want to
27 thank everybody who did, because there was a lot of input that we received from the
28 department on very short notice, very quick turnaround to a lot of questions that were
29 posed. We received a lot of suggestions from the Montgomery County Volunteer Fire and
30 Rescue Association. I received a letter from John Sparks of the Career Firefighters that
31 expressed concerns about some of the proposed cuts. And we heard from a lot of
32 individuals as well, so thank you all for that. I want to thank my colleagues on the
33 committee, Councilmembers Elrich and Praisner as well. We came to agreement on
34 recommendations, and I'll go through the departments first that we accepted as proposed
35 the cuts for. And they are the Circuit Court, Consumer Protection-- I'll describe them a little
36 bit. The Circuit Court was proposed for a cut of \$268,000 in lapse.

37
38 COUNCILMEMBER LEVENTHAL:

39 Mr. Chairman, as to that...

40
41 COUNCIL VICE PRESIDENT ANDREWS:



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1 Yes?

2
3 COUNCIL PRESIDENT KNAPP:

4 Could we just clarify what the packet are we reading from?

5
6 COUNCIL VICE PRESIDENT ANDREWS:

7 Yes, sure. Well, you're looking at... Right now, you are probably looking at agenda item
8 10.

9
10 COUNCILMEMBER LEVENTHAL:

11 Okay, and what page is the Circuit Court on?

12
13 COUNCIL VICE PRESIDENT ANDREWS:

14 The Circuit Court, though, is not in that packet. [Laughter]

15
16 COUNCILMEMBER LEVENTHAL:

17 That's why. It's in the larger packet, I believe.

18
19 COUNCIL PRESIDENT KNAPP:

20 That should be 10-E. 10-E, okay. I'll try to work off at the same packet as you are. 10-E...

21
22 COUNCIL VICE PRESIDENT ANDREWS:

23 All right. Now, if you look at page 2 of packet 10-E, it summarizes four departments that
24 we considered to have very non-controversial recommended cuts and we accepted them.
25 The Circuit Court was for \$268,000, that was in lapse. Consumer Protection was for
26 \$66,000. It was a mixture, but did not appear to have any substantive impact on service.
27 Emergency Management, Homeland Security was for a reduction of \$16,000 in lapse, and
28 the State Attorney's office was for a reduction of \$126,000 partly lapsed, partly... Well,
29 actually, that was a mixture, and that is described in my packet, if not yours, and I can
30 come back to that. But we did not think that there were any substantive service impacts
31 from those reductions. And then, I'll mention Liquor Control because it has a large savings
32 of \$969,000 that are garnered by a lapse and deferring purchases of trucks and some
33 building improvements. The Liquor Control Department is in a different category than the
34 other departments that we consider. And so, our recommendations on Liquor Control are
35 actually just advisory under State law, but there's been a good working relationship and
36 we have agreed that those cuts were acceptable as well. So, those are the ones that we
37 found least controversial and accepted all of those. And then, I'll start and go through on
38 page 2, the Correction Rehabilitation budget which we spoke with the director about, Art
39 Wallenstein. The proposal was for saving \$665,000 in lapse. We wanted to understand
40 what kind of impact this would have on the operation of the department. We were assured
41 the department thought that they can do it without any short-term impact, at least on



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1 public safety, and they will monitor it closely and get back to us if they see any trends
2 developing that concern them a lot. So, with that assurance from the director who has
3 always been outstanding in his analysis and presentations, we accepted the
4 recommendation. I'll come back to Fire and Rescue because that's where we had made
5 the most changes, and I'll go on to the others. We then went on to the Police Department.
6 The Police Department's recommended savings was for a total of \$2.4 Million. And that's
7 on page nine of the packet 10-E, all right? So, on page nine, the savings from the Police
8 Department are primarily in lapsing civilian positions for a total of \$1.87 Million. That is a
9 substantial amount of lapse and we were curious about whether that would result in more
10 overtime to fill those positions. We have not heard that it would and we don't want to see
11 overtime used except in emergencies to fill those positions and we need that to be a true
12 savings. But that was how the department proposed taking most of its \$2.4 Million target.
13 They also proposed, and we accepted, reducing the January 2009 recruit class from 20 to
14 15, which saves a \$172,000, and reducing operating expenses by \$350,000 which gets
15 you to the \$2.4 Million total. The Sheriff's Office is on page 11. This is a much smaller
16 amount, it's a much smaller department, and the amount of \$109,000 in savings was
17 achieved by not bringing on four new recruits in the January 2009 class. They indicated
18 that their retention has gone up; people are leaving at a slower rate, perhaps due to the
19 economy and so they do not feel... They feel that they can get by without adding recruits
20 at this time. On the other hand, they do have an individual who they are interested in
21 bringing back who is already trained and would not need to go through the class and we
22 said all right to that as long as you can find offsetting savings. They also would lapse
23 \$8600 in the warrant section. So we supported those proposals from the Office of the
24 Sheriff. Let me stop, pause, and see if there are any questions about any of those
25 departments.

26
27 COUNCIL PRESIDENT KNAPP:

28 I was troubled a little bit with the lapse of the civilian positions and I appreciate that.

29
30 COUNCIL VICE PRESIDENT ANDREWS:

31 On the police?

32
33 COUNCIL PRESIDENT KNAPP:

34 Yeah, on police. I guess I would also note that as Mr. Farber noted at the beginning, we
35 asked the Executive Branch for \$8 Million dollars in savings. I believe they got close to
36 three and they said they couldn't from here. Amazingly, nearly half of what they could
37 have come up with later shows up as lapses of in-position police, so I'm intrigued by that.
38 How do we get to \$2 Million in lapse? We just did a budget. I mean, if we had that much
39 additional lapse that we could have achieved, why didn't it come up during the close of
40 that discussion?



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1 JOE BEACH:

2 Well, because this is the intentional actions of the Police Department to hold approved
3 vacant positions vacant for longer and manage around that. So, obviously, it's not an ideal
4 situation, somebody is going to have to do that work.

6 COUNCIL PRESIDENT KNAPP:

7 Okay. All right.

9 COUNCIL VICE PRESIDENT ANDREWS:

10 It is an ambitious amount that we are expecting to meet, and that was what was put
11 forward, is the way they thought that would have the least impact on the public end, and
12 we hope it will. All right, I'll go on now to the fire service where we spent most of our time
13 and where we made the most changes. We were very concerned--I think I speak for the
14 entire committee--some of the recommendations we saw from the Executive that we have
15 seen before, which are to reduce ambulance service. This is on page three of your packet
16 10-E, outlining the different proposed reductions which included reducing the ambulance
17 service that's part of the flex unit in Silver Spring. That's S-4. The ambulance in
18 Laytonsville would be reduced from 24/7 to 10 hours a day, five days a week. Same with
19 ambulance in Hyattstown and ambulance in Glen Echo. Each of those would save about
20 \$217,000. The flex unit at Silver Spring costs about \$87,000 for the 40 hours that it's
21 currently in service right now, Monday through Thursday for 10 hours. And the destaffing
22 the rescue squad in Germantown and moving one of those individuals who was destaffed
23 to the Tower of 729. Minna Davidson who staffed us on that issue, noted concerns about
24 that as well. We had seen some of these recommendations before the Council. It has
25 rejected them before, and I'm all for rethinking what we do in terms of considering old
26 ways of doing things. But the committee believes that the public expects there to be
27 ambulance service in the County, throughout the County and in each station. And we do
28 not believe that this is where savings should be taken. We think this is a basic function of
29 government. I end that we need to maintain the service, it's expected. And you would,
30 under this proposal, still have the ambulance there but it wouldn't be staffed which I think
31 is problematic as well. The Executive also proposed eliminating three positions,
32 administrative positions in the local Fire and Rescue Departments, and I will get into what
33 our recommendation is there. But our general approach on this was, yes. And listening to
34 my colleagues and the comments about the budget, I agreed with all the different points
35 that were said, and they were complimentary. And they were this, I think. Well, hard times
36 require hard choices and there are going to be cuts and people will see that and they are
37 seeing it starting today and they'll see it a lot over the next year. We need to look at
38 structural issues as well as stopgap measures to save money, because we have structural
39 issues in terms of the size and the workforce we need to address. And while we are doing
40 that and not raising taxes and trimming in a way that is wise to protect the safety net,
41 because the safety net is going to have more people falling into it the next year. It's



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1 already occurring. So, I see a Council consensus emerging around that general approach,
2 and that is the approach that the committee brought to this. And so, we rejected the
3 reductions in ambulance service and in the frontline service. We want the department and
4 we have very good discussions that were led really and have been encouraged strongly
5 by both Councilmembers Elrich and Praisner for the department to look at how they are...
6 Look at their administrative approach, look at how they are managing the programs. To
7 look at whether tasks that are currently performed by high level members of the
8 department, captains and so on, can be pushed down. In some cases, some of those
9 tasks perhaps could be done by people at lower ranks which would cost less. We really
10 need to think creatively and aggressively about that in order to save money while
11 maintaining the frontline service to the public. And we had a good start to that discussion
12 and it needs to really move forward. Hard times force hard choices, and that will move that
13 discussion forward than I think it would have moved otherwise in rosier times. So, I think
14 that will be something you will see consistently over the next few months. What we did
15 accept in terms of the cuts were these. We did support...

16
17 STEPHEN FARBER:

18 Mr. Andrews? Just to help out, the best place to see that is in Minna Davidson's table
19 which is on page five of the addendum.

20
21 COUNCIL VICE PRESIDENT ANDREWS:

22 Yes.

23
24 STEPHEN FARBER:

25 And I think that captures what you did so that everyone can be clear about it.

26
27 COUNCIL VICE PRESIDENT ANDREWS:

28 That is correct. We are talking addendum one, agenda item 10, addendum one.

29
30 COUNCILMEMBER LEVENTHAL:

31 Could be pause for a moment?

32
33 COUNCIL VICE PRESIDENT ANDREWS:

34 Sure.

35
36 COUNCILMEMBER LEVENTHAL:

37 I don't know if I have addendum one.

38
39 COUNCIL VICE PRESIDENT ANDREWS:

40 Page five, addendum one.



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1 COUNCIL PRESIDENT KNAPP:

2 Okay, everybody find it?

3
4 COUNCILMEMBER LEVENTHAL:

5 It's not just about public safety, it contains Steve Farber's overview.

6
7 COUNCIL VICE PRESIDENT ANDREWS:

8 Right, yes. Okay. All right, there is a lot of white paper up here right now. But this is a
9 packet addendum one. On page five of that addendum, Minna has put together an
10 excellent table that describes the committee's recommendations. We accepted the
11 Executive's recommendations to move the recruit class 34 from March to June, from
12 March 16th to June 22nd. That saves \$750,000. We accepted the recommendation to cut
13 back on overtime in Fire and Explosive Investigations; it's a small amount, \$2,300. We did
14 not accept the Executive's recommendations on reducing the ambulance service and
15 destaffing the rescue squad, and that is a total of about \$1,040,000 that we did not accept.
16 We partially accepted the Executive's recommendation on eliminating the three personnel
17 in the local Fire and Rescue departments. However, it's our understanding there really
18 wasn't any coordination there between that recommendation and the Montgomery County
19 Volunteer Fire and Rescue Association. And we looked at where we have staff for the
20 LFRDs in the stations. The rationale that from the Executive appeared to be that in those
21 stations where there were two, they would eliminate those. However, there is a big
22 difference in workload between some of those stations. In Kensington and Rockville
23 departments each has four stations; the Gaithersburg station department has two stations.
24 So we took the reduction for the position in Gaithersburg since the workload is
25 substantially less than in Rockville and Kensington. And we were informed that there was
26 about to become a vacancy at Glen Echo, and we said lapse that when it becomes vacant
27 for the rest of the year and find a way to fill that need in some other way, which would get
28 us about \$60,000. It's important to note that the administrative personnel in these stations
29 serve the entire service in terms of the people who are working in them, because you
30 have career and volunteer folks serving out at these stations and it is important that the
31 stations operate in an efficient way. So, we did not feel that enough work had been done
32 at this point to simply accept the reductions in the other two stations, but we took the
33 Gaithersburg one and lapsed the one in Glen Echo. And to offset a good portion of what
34 we restored, we made what we think is a hard choice, but one that is the better of the
35 alternatives of cutting ambulance service versus maintaining the current status of having
36 three EMS duty officer slots that are all 24/7 which are very expensive slots. Each of those
37 slots is approximately... Well, the first slot is approximately half a million dollars and the
38 other slots that are filled with overtime currently, at least, are about, and this is on the
39 bottom of the chart, about \$600,000 a year for each of those slots because the 24/7
40 requires 4 to 4 1/2 people to staff that amount of time, staffed by people on overtime that
41 are the level around captain. You're looking at about \$150,000 a person to staff that. And



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1 we understand that the fire chief was planning to cut back on one of those positions in the
2 near future independent of what we are recommending. And so, we recommended that
3 both of those positions be discontinued, one in December and one on January. I have
4 spoken with the fire chief since then, and he indicates still some concern about that
5 recommendation. And I invite the acting chief Bowers to feel free to recommend other
6 alternatives to it and we will consider them expeditiously. But we felt that we needed to
7 find savings in administration, the fire service, and to protect the front-line service. And so,
8 that's what we did.

9
10 COUNCIL PRESIDENT KNAPP:
11 Councilmember Elrich?

12
13 COUNCILMEMBER ELRICH:
14 If my colleagues look in their package, not now, you will find an exchange between--

15
16 COUNCILMEMBER LEVENTHAL:
17 Which packets?

18
19 COUNCILMEMBER ELRICH:
20 The addendum two, questions that were raised by the volunteers and responded to, first,
21 by the fire service and then response to the fire service by the volunteers again. And it
22 raised interesting questions about possible opportunities for things that we ought to
23 explore for, you know, a longer-term look at how to approach your organization or the
24 department. And I raise this because this is one department where we are on track for
25 major expansion. We're opening five fire stations. We're going to add about 33 firefighters
26 a station when you considered 24/7 coverage. So the next several years, we are
27 committed to 165 new personnel in this one department alone, not counting any
28 commitment to four-person staffing which could easily take us up to two hundred people,
29 new employees. And if anything brings home the need to look the organization, the
30 structure of how departments run, it is being faced with adding 200 new employees to it.
31 We have no choice. We're not going to take these firefighters out of other stations. We
32 don't have over-staffed other stations. We do not have a ton of volunteers sitting around
33 and saying, "We'll fill these stations." We haven't even been able to fill a 4-person staffing
34 with volunteers. So, this is not going to be solved with volunteers. And it is not going to be
35 solved with shifting around personnel. And so, we're looking at up to two hundred people
36 in a few years added to our current payroll, our current budget. That is not going to be
37 insignificant. And, in fact, with the operation of those stations and everything else, that is
38 an unavoidable cost unless the county plans on shuttering the stations and leaving them
39 unused, which I doubt any of us would do. So, I think that, you know, the committee have
40 felt pretty strongly that we wanted to look at the structural issues inside the department.
41 And I have to say, this is not the only department where this kind of look ought to occur.



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1
2 COUNCIL PRESIDENT KNAPP:
3 Councilmember Floreen?

4
5 COUNCILMEMBER FLOREEN:
6 Thank you. I had a question about the reduction, reducing two 24/7 EMS duty officers
7 slots in the course of the year. I gather that's overtime?

8
9 COUNCIL VICE PRESIDENT ANDREWS:
10 These positions are currently filled with overtime.

11
12 COUNCILMEMBER FLOREEN:
13 Are we putting a cap on overtime that is permitted within the department? I was just
14 looking at it, it is well over 330 hours of overtime. That's what that number reflects.

15
16 COUNCIL VICE PRESIDENT ANDREWS:
17 One of the goals of the public safety committee has been to figure out what's the
18 appropriate amount of overtime for different agencies, for the police, corrections, fire and
19 rescue in particular, which are three large users. Corrections did an exhaustive study few
20 years ago and figured out what the shift relief factor is and could calculate very specifically
21 because they have the posts and there's some predictability there. It is a little more
22 difficult in the fire service. It is a more complicated department than both the police
23 department and corrections. But, we have wanted to have very good management of
24 overtime and to push them to be monitoring it very carefully. And there have been some
25 significant improvements in the fire service in doing that. And we want that to continue.
26 The reason that the department has not come in for supplementals over the last few
27 years, even when it has been over its overtime budget, is because they have been able to
28 use their lapse money for overtime. And so, that has not caused them to go over in the
29 overall amount allocated for personnel for salaries. But it is healthier to have a more
30 predictable number and not to have overtime be used, I think, to the extent that we see it
31 used. And this will have some impact in how they use it, but I don't know if I got your
32 question.

33
34 COUNCILMEMBER FLOREEN:
35 Well, my question is, how do we know, I mean, that some amount of savings actually be
36 realized in a measurable way? If there were positions with people in it that would
37 otherwise be in there-- I understand how that you we'd be able to measure that. But are
38 you saying that-- Well, I had asked the committee to keep an eye on how this works
39 because if it's just filled with overtime--

40
41 COUNCIL VICE PRESIDENT ANDREWS:



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1 There three people right now, there's three positions that are filled 24/7, two of them with
2 overtime 24/7. And so, that will, under this recommendation, stop December first to
3 January first, so it'll be one position staffed 24/7 doing this role that is now done by three
4 which, certainly, will put more pressure on that person, but we felt that was the better
5 alternative to finding savings by reducing ambulance service. And, again, another fire
6 chief wants to make an alternative recommendation to part of that. And we will certainly
7 listen to it and encourage him to come up with proposals.

8
9 COUNCILMEMBER FLOREEN:
10 Obvious challenge.

11
12 COUNCIL PRESIDENT KNAPP:

13 Just a couple of observations. And I appreciate everyone's contributions to these efforts.
14 There is, I guess, a 35-, 36-page document that goes back and forth between the
15 volunteers, the county, and back to the volunteer organization. And I think there were
16 some interesting ideas in there that should be pursued. A lot of it is talked about, which
17 Chief gets to go where and a long discussion about who paid for which car, which I
18 suppose is beneficial. But at the end of the day, near as I can tell, volunteer funds, tax
19 dollars, other MS funds are all being paid for by our residents in our county. So pretty
20 much, all of our folks are paying for all of these things. There has been a long discussion,
21 though, over the last couple of years, and I've been on the committee for six months now,
22 or five months, about seeking additional opportunities for volunteer firefighters and we've
23 been very committed to that. We've had a lot of additional resources especially with the
24 new contract that was negotiated. But one of the things we're looking at is as we moved
25 into 4-person staffing, to really look to the volunteers for a way and a plan to get those
26 additional four people from the volunteer community. I don't know if there's been a plan to
27 put that forward yet because I think that's going to be something as we go on to the next
28 six months. The chief discussion is fine, but the practical effect is, we need to have a lot of
29 firefighters out there. And to Mr. Elrich's point, there's a lot of new bodies we got to get on
30 the ground. And I know that the volunteers have been looking for additional opportunities
31 and they're here right now. And so, I'll hope that we can between now and when we get to
32 the next budget. There is actually a plan for how we can get to some of that staffing using
33 our volunteer firefighters because I think that's a logical place to fill it in, but I know we've
34 been lacking a plan, and we're and going to put a prototype in place to set up a couple of
35 stations. I don't know if that has existed yet, but...

36
37 COUNCIL VICE PRESIDENT ANDREWS:

38 We'll track that down because it's an excellent point. We want to fill as many positions as
39 we can with volunteers. And the suggestions or recommendations by the volunteers have
40 helped to set off a very lively and, I think, productive discussion back and forth that we
41 need to have and we will have this year, especially because we will be making additional



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1 cuts and we need to make them in areas where they have the least impact on the public.
2 And we want to find as many opportunities for volunteers, and there are clearly some we
3 would like to see filled that we're going to work with them to accomplish if at all possible.
4 So, we will push hard on that.

5
6 COUNCIL PRESIDENT KNAPP:

7 That's going to be important, to have a real plan in place that can work. Okay. That's it for
8 public safety?

9
10 COUNCIL VICE PRESIDENT ANDREWS:

11 That's it.

12
13 COUNCIL PRESIDENT KNAPP:

14 Excellent. Thank you. I see no further questions. Transportation, infrastructure, energy,
15 and environment. Chair Floreen?

16
17 COUNCILMEMBER FLOREEN:

18 Thank you. I think Councilmember Leventhal got it right. I think it's "Three Faces of Eve."
19 "Buckle your seat belt. It's going to be a rocky night."

20
21 COUNCILMEMBER TRACHTENBERG:

22 "A bumpy ride."

23
24 COUNCILMEMBER FLOREEN:

25 Something like that, bumpy ride, rocky road, whatever it is. I'll just comment, we haven't
26 even began to look for serious thumps or the rocks in the road here. The TE committee
27 basically contributes about \$80,000 to the savings plan, not by any means up to the level
28 of the MFP Committee. I compliment you, Ms. Trachtenberg. And I would just simply say,
29 again, it is just the very, very beginning. We agree with staff recommendations on the
30 Department of Environmental Protection, general services, and facilities and in printing.
31 Note that this is where people will start seeing the lack of maintenance. That's some big
32 cuts there. In transportation, basically that's where the bulk of the reduction is here. A
33 number of these are people. The further issues have to do with the advancements we've
34 made over the years having to do with maintenance. It could have been gutter, roadside,
35 and bike trail maintenance. Really a lot of the improvements that we've added over time
36 are now gone. The one dominant in the budget where we resisted the deletion was to
37 retain the reflectorized pavement markings. It's a small amount at this stage of the game,
38 \$50,000. These are very shiny things that keep you on the road and keep you from going
39 off the road. So we thought that it was important to retain them. The issues of greater
40 concern, frankly, have to do with reduction of ride-on services. The annual cut to ride-on
41 that has been proposed will be over \$1 Million. They will propose to restrict some of the



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1 services starting, I think, it's in April. So, the results for this current fiscal year is less.
2 There are 13 different routes that will be affected by the changes and we regret every last
3 one of them. We had a person come and talk to us at the town meeting last week who
4 said to us, "How am I going to get to my job? I don't drive." And I'm afraid we're going to
5 hear more and more of that. One way we tried to help retain a certain amount of service
6 was to retain the ride-on bus route that goes to the Piccard Drive HHS facility to the
7 [indistinct] to the crisis center. We were able check with the staff after the meeting to verify
8 that there is a significant demand for that route and that it was worth preserving. Although,
9 we still end up saving money overall in the budget because, you'll see in the next item, we
10 have reduced dollars spent on the acquisition of new vehicles in the motor pool. So, we
11 defer significant amount of targeted equipment and vehicle replacement. And actually, we
12 added some additional savings in that category. We verified that even though
13 maintenance expenses will increase, they are bearable under the circumstances. So,
14 basically, the additional 11 vehicles, then, that would not be replaced under this scenario.
15 Council staff recommends, and we concurred, that we'll take a look at fees generally later
16 in the course of the year. And we'll see what we have to do in that regard. So, that is our
17 recommendation, really going back to basics here.

18
19 COUNCIL PRESIDENT KNAPP:

20 Okay. Councilmember Berliner?

21
22 COUNCILMEMBER BERLINER:

23 Just an observation that I feel like this a situation which the County Executive actually
24 didn't listen to our concerns last go-around where there were the wholesale elimination of
25 a number of routes. And in this instance, what has primarily been done is instead of a 30-
26 minute wait in some routes that aren't used a lot, it's going to be maybe an hour wait in
27 between routes. So there was a much more conscious and surgical approach to this, and I
28 think that's what made it easier for our committee to basically bless these savings. At the
29 same time, we discovered that one of the routes that we're looking at is basically a route
30 that serves Frederick County residents and Urbana. And we're saying to ourselves--I don't
31 know--we are subsidizing Frederick County residents because we want to get them off
32 270, which we do. But we maybe need to rethink whether those kinds of routes make
33 sense in this particular context. So there are going to be more cuts coming undoubtedly,
34 but I do believe that the County Executive acted in good faith with respect to this round by
35 not eliminating routes wholesale and focusing more narrowly.

36
37 COUNCIL PRESIDENT KNAPP:

38 Okay. That concludes all the Committees' reports. Are there any general questions or
39 overviews that people had? I don't see any. Just for the redux, this gets to a total of...?

40
41 STEPHEN FARBER:



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1 I believe it's about \$33 Million.

2
3 COUNCIL PRESIDENT KNAPP:

4 \$33 Million and assuming we get the additional \$10 Million from MCPS that we believe
5 we'll get, then we're up to 43. So, we are well on our way till the next discussion we have.
6 Okay. So, as far as motion, we have a motion before us. We have to do two things. Can
7 we can suspend the rules and approve the resolution all in one fell swoop? Okay. And
8 that's not a roll call. That's just a show of hands. Okay. Then we have before us the
9 special rules and action on the Budget Savings Plan as recommended by the various
10 committees. Any discussion? All in support, indicate by raising your hand. That is
11 unanimous. And I thank the Committees for their efforts and their recommendations. And I
12 wish I could say we won't see you all soon, but we'll see you all soon. I thank you all, and
13 thank you, all the various departments and agencies. One thing I would just add before
14 everyone disappears, I apologize, is we heard this alluded to across the board.
15 Communication is going to be critical. And near as I could tell, because I asked this in the
16 committees, senior discussions between the Executive staff, either the CAO or the County
17 Executive, and the senior management within Montgomery College, MCPS, our Park and
18 Planning did not occur. And I think it's going to be critically important as we move forward
19 in this for there to be a very open line of communications not only between budget staff,
20 but to make sure the County Executive and the CAO are having conversations with the
21 Senior Management, the Superintendent, the Head of the School Board, the Chair of the
22 Planning Board, the President of the College because this isn't going to get easier. And if
23 we're all kind of casting aspersions and talking and past each other, this isn't going to
24 work very well. And so, I think it is going to be critically important to make sure that that
25 phone line is open and we're picking it up and we're talking to people before I make the
26 next set of recommendations because that's what got us to kind of the biggest hiccup in
27 the numbers that were presented to us. And so, I asked at each level, in each of the
28 Committee meetings, and so we need to make sure that the County Executive and the
29 CAO engage in that conversation with those Senior Managers as well.

30
31 JOE BEACH:

32 Certainly, I do want to say, I'm not sure what the reference to casting aspersions is. We
33 very much appreciated the efforts of the other agencies in this, so--

34
35 COUNCIL PRESIDENT KNAPP:

36 I guess we're just making various assumptions as opposed to actually understanding what
37 people could or couldn't do. And I think it is important for us as we move forward to
38 actually have that dialogue. Okay. All right, thank you all very much for your efforts.
39 Appreciate it. Okay, we now turn to Legislative Session day number 38. Madame Clerk, it
40 appears we have a journal for approval?



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1 COUNCIL CLERK:

2 We have a journal of October 28 for approval.

4 COUNCIL PRESIDENT KNAPP:

5 Is there a motion?

7 COUNCILMEMBER BERLINER:

8 I'll move.

10 COUNCIL PRESIDENT KNAPP:

11 Moved by Councilmember Berliner, seconded by Councilmember Trachtenberg. Is there a
12 discussion on the legislative journal? Seeing none, all in support indicate by raising your
13 hand. It is unanimous among those present. Thank you. And we now turn to call of bills for
14 final reading, Bill 25-08 Emergency Medical Services Transport Fee in position. There's
15 obviously been a lot of... Pardon? Introduction of... Oh, I'm sorry. Sorry. My mistake.
16 Introduction of bill, Expedited Bill 36-08:

17 Personnel Retirement--Technical Amendments, sponsored by the Council President at the
18 request of the County Executive, public hearing is scheduled for December 2 at 1:30 p.m.
19 Are there any other questions on the introduction of that bill? Seeing none, it is so
20 introduced and the public hearing is now set. Okay, thank you. Now, we turn to the
21 Emergency Medical Services Transport Fee. There's obviously been a lot of conversation
22 about this. I will turn to the Chair of the Public Safety Committee for some discussion as to
23 what the Committees' discussions were and then turn to the Executive Branch to walk us
24 through the proposal that they have presented to the Council, see what questions
25 Councilmembers have and see where we stand at that point. Our first step is to hear from
26 the Chair of the Public Safety Committee, Vice President Andrews.

28 COUNCIL VICE PRESIDENT ANDREWS:

29 Thank you, Council President Knapp. I appreciate that. Well, we are fortunate to be
30 surrounded by so many of the people that we have in this room who are with the Fire and
31 Rescue Service in various capacities. We are fortunate to live in a county that has such a
32 strong service and that has such both dedicated career and volunteer personnel. The long
33 and short of it is that Committee does not have a formal recommendation, but it's fair to
34 say that there are strong views among the committee members as they are our
35 community as well. This is fundamentally a public policy issue, not a revenue issue. And
36 we need to approach it in that way because it is a major proposed change in how the
37 service would operate. It is a big change to start charging for Emergency Response
38 Services when you have not done that before. And it raises issues of what precedent does
39 that set. Is this a road that we'll go down in other areas? What impact will it have on the
40 volunteer departments which are an integral part of our service. And we are remarkably
41 fortunate to have so many dedicated people in this county that continue to serve as



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1 volunteers. Of course, the service grew out of volunteer departments. The volunteers own
2 most of the stations, volunteers put in in the 2006 and 2007 two-year period, over a million
3 hours of certified well-staffed service equivalent to 500 work years. That is an enormous
4 contribution that is provided by volunteers. And we are bucking the trend. There are very
5 few jurisdictions in the country that are seeing an increase in volunteer participation. We're
6 not seeing a decline, and we are one of those. And there are a lot of reasons why we
7 have gotten to that point. We have received--the Council has received, all my colleagues
8 have received, I assume the Executive Branch has received as well--an extraordinary
9 amount of communication from the public on this issue. In fact, in the 10 years that I've
10 served on the Council, I've never seen this much correspondence on any other issue. And
11 people feel very strongly about it. And there have been some remarkably memorable
12 communications from our constituents. And I just want to get a flavor of some of them
13 because I think it takes the issue out of the antiseptic realm and puts it where it needs to
14 be. I'm actually looking at one of the people right now who sent e-mail to the council,
15 whose name is Paul Sterling. And he wrote that he is employed by Montgomery
16 Department of Police for 34 years, retiring in 2005. Mr. Sterling, raise your hand if you
17 would. There you go. Additionally, he says, "I have been an active volunteer firefighter in
18 Montgomery County for 42 years. I joined the Wheaton Volunteer Rescue Squad in
19 August 1966 and remained active the entire 42 years," including the time period during his
20 career as a Police Officer. So he was doing both throughout that time. Wheaton Volunteer
21 Rescue Squad has predominantly emergency Medical Services Department, staffing three
22 basic life-support units and three advanced life-support units and two other rescue
23 squads, has a very active volunteer department, ninety-four active volunteer members.
24 We do this with great care and pride without any compensation. Think about how much 94
25 active volunteers saves the county. This is just one of the 19 departments." And he goes
26 on to say that, "For me, personally, the ambulance fee proposal is a very disturbing
27 proposal. I've sacrificed most of my life to public safety and to providing free state-of-the-
28 art emergency medical services to citizens of Wheaton and the surrounding communities.
29 I've done so with complete professionalism and pride and the spirit of volunteerism and
30 community service. While other jurisdictions have fallen prey to hunger for money, I've
31 been proud that Montgomery County has resisted this practice and placed our citizens
32 and public safety over greed for money. Please do not jeopardize public safety and the
33 well-being of our citizens." I read one other from someone who is a volunteer who is an
34 outstanding female volunteer who was recently awarded a Woman of Achievement by the
35 county. Her name is Brooke Davies. She wrote that, "I was nominated for the award as a
36 result of my work for the community in the form of serving as a volunteer Master
37 Firefighter, EMT/B, swift water rescuer, confined space rescuer, and former Treasurer and
38 Board Member at the Bethesda-Chevy Chase Rescue Squad. For 13 years--through
39 college, law school, a legal career, and now as Chief Operating Officer of a consulting
40 company--I've given to the Montgomery County community tirelessly and without pay not
41 because of a desire to make a living out of the service, but because I truly love serving the



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1 citizens of the county." And she argues very strongly that the ambulance fees would
2 undermine the volunteer service that she has contributed so much to that serves such a
3 crucial part of our fire service. I think the larger issue here is what impact would this major
4 change in public policy have on the long-term viability of our volunteer departments for
5 which we are tremendously grateful and desiring of seeing that viability be maintained and
6 strengthened. As Council President Knapp mentioned, we would like to see more
7 positions filled by volunteers, not less. We would like to see some of the 4-person staffing
8 be filled by volunteers. And we want to do everything possible to make that happen. And
9 we know there are many challenges doing that. We don't want to add to the challenge that
10 volunteers already face, volunteer departments already face, in recruiting. A couple of
11 other issues that I will mention and then I will turn it over to the folks at the table to make a
12 presentation. In terms of assessing the financial impact the volunteers have on the
13 service, the Executive noted in their memo that came over November 21st, Friday, from
14 Kathleen Boucher that the estimated assets of the volunteer departments, they're
15 estimated about \$100 Million. That may be a low number but there was also an estimate
16 in there, and this is in the packet, if you look at your packet that we have for this meeting,
17 if you look at circles 51 through 55 in the memo that Ms. Boucher sent over, there is an
18 answer to a question about what is the estimated cost of replacing current all-volunteer
19 hours with career personnel. And the answer says, "The county assumes that 32 positions
20 be filled on nights and weekends by volunteers." And it goes on to estimate what that
21 dollar savings is for those 32 positions, if I'm reading correct, which is the equivalent of
22 133 work years. And the estimated savings is \$15.8 Million. It's on circle 51. That does not
23 capture a lot of the hours, and it is a substantial number by itself. But if you have a million
24 hours of low-staff service over two years which is the equivalent of 500 work years over
25 two years, 250 a year, currently 133 is a lot less than the amount of hours that are being
26 certified as served by volunteers that are not included in that calculation. So that number
27 is certainly low, probably by several millions of dollars. There's also a chart on circle 55
28 that lays out what the-- In response to a question about what does this county provide to
29 support the LFRDs, there's a chart on circle 55 that indicates that the total is \$15 Million.
30 However, most of that money would be spent regardless of whether volunteers were in
31 those positions or not because that money is going to support, for the most part, the
32 stations and the infrastructure that you need to run those services out of the stations. So,
33 my point is that the volunteer contribution to the service is very substantial, is one of the
34 most remarkable aspects of this county. It is one that we should do everything possible to
35 encourage. Although there was disagreement on this body about some of the arguments
36 made by me and others, which are that some people hesitate to call if you have a fee
37 because they won't know how it works or they won't think about it in a rational way. I think
38 we can all agree that volunteers in this county feel very strongly, the departments, that this
39 is the wrong direction to go. And we should be very concerned about that because we are
40 the beneficiaries of this tremendous service provided by over 1000 people in this county.
41 And this clearly is an issue that the volunteers feel will undermine their service and



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1 violates why they do it. The idea of charging a service for something they provide for free
2 is fundamentally against the volunteer ethic. And it is that as well as the concerns about
3 breaking the bonds between the community and the departments and, I would say, the
4 experience that individual volunteers have in seeing how people react to their own
5 medical emergencies. We had a very strong letter from Captain Seavey Captain-- I'll wrap
6 up in just a minute. That is included, was included in...

7
8 COUNCIL PRESIDENT KNAPP:

9 Are those letters, no doubt, you've read and you're going to read to us today?

10
11 COUNCIL VICE PRESIDENT ANDREWS:

12 No, no, no. I couldn't possibly read all the letters we've received. I've tried to highlight
13 some of the most poignant ones, and there are many. It was a hard choice to pick out a
14 few. But Captain Seavey wrote about a personal experience that he had. He serves in the
15 District of Columbia during his daytime job in the Fire and Rescue Service. And he wrote
16 personally about how an elderly gentleman, diabetic distress, did not want any more
17 ambulance service because of how the district was handling it. I think it's hard to deny that
18 there would be at least confusion about how such a fee would work, in part because of
19 how the system would have to be set up to comply with federal law. And the bottom line is
20 we don't need to go there. We have one the best systems in the country. We have a
21 community that thinks highly of it. And the answer is not to go to a fee, but to strengthen
22 the service that we already have and particularly, to do everything possible to get more
23 volunteers in to help offset the additional demands that we have coming in our service. I
24 wanted to just get that out there because I think it is fundamentally a public policy choice,
25 not a revenue issue. And I know how tempted we all are to grab at every dollar out there.
26 But I urge people would think long-term because this is a fundamental change in public
27 policy and with very significant impacts, in my opinion. Thank you.

28
29 COUNCIL PRESIDENT KNAPP:

30 I appreciate the perspective of the Chair of the Committee. One of the reasons for having
31 scheduled this was, it became very clear during the Council's town hall meeting last week
32 that there is a great deal of misinformation that exists out there. In fact, there are number
33 of people who think right now they can't call 911 because something bad is going to
34 happen if they do that. And so, I wanted to at least make sure we have an opportunity on
35 TV today to make sure that we can reinforce to people that they should be calling 911 if
36 there is an emergency. That is something that is greatly concerning people right now and
37 we need to recognize that. I think it is important to hear what the Executive Branch's
38 proposal is. Just a couple of things. I agree with the Council Vice President that it is a
39 policy and economics discussion. And good economics doesn't always make good policy.
40 By the same token, nor does it necessarily mean that good economics makes bad policy.
41 And so, I think it is important for us to weigh each of those elements on the merits. And



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1 so, I would encourage us as the Executive Branch looks at that to listen to what they are
2 presenting in both the policy side and the economic side. And I would just say, I guess I'm
3 struggling a little bit and I hope to hear this in the course of the discussion. I don't know
4 that it's volunteers or ambulance fee. We had a major discussion four years ago in this
5 council in which we we're concerned that we would lose volunteers. And, in fact, since
6 then, because of many the things that the council has done in working with the volunteers,
7 we have seen an increase in volunteers. And so, I'm not sure that we're necessarily going
8 to see that reduction if you necessarily get an ambulance fee only because he have heard
9 some of the arguments before and, in fact, the opposite has occurred. One of the other
10 things, I think, that's also interesting and I had conversations. And again, without having
11 formed an opinion, necessarily, one way or the other when I had some of these
12 conversations, Fairfax County implemented an ambulance fee four years ago, three years
13 ago. And there were a number of the Board of Supervisors who were not supportive at
14 that time, and I had an opportunity to talk to two who were probably most ardently
15 opposing it, and each of them were surprised at how well it has been implemented. But
16 one of them who was most opposed was so surprised because it actually has helped with
17 their volunteer community because it has enabled them to do some things they could not
18 have done otherwise. And so, I want to put that out there as information I bring from other
19 communities as they've had this discussion as well and information we should just keep in
20 mind. What I want to try and do is get to the Executive Branch to make their presentation.
21 There are lots of Councilmembers who have comments and who'll have questions. So, if
22 you can walk through it... I don't know who is doing it, but if the CAO, Mr. Firestine, would
23 begin the presentation, then we can go from there.

24
25 **TIM FIRESTINE:**

26 I'd like to start just by making a few comments and then I'm going to turn it over to
27 Kathleen and she can help lead us through the legislation. I do think revenue issues are
28 also major policy issues. And I don't see how you can separate the two. This is a
29 significant issue. The Executive raised this quite some time ago now with the council. It
30 has been before you for quite a period. The Executive proposed this fundamentally
31 because of his concern about our ability to maintain fire and rescue response in this
32 county during our unprecedented fiscal challenges which we face. It's pretty clear from the
33 actions you just took a little bit ago, you're starting down a path of trying to solve a gap
34 which is growing dramatically. That was one step. Our suggestion is that you take a close
35 look at this as another tool to start trying to keep our budget in balance. We've been
36 providing, I feel, a lot of information for quite some period of time on this subject. We set
37 up a website. We've had meetings with the community. We've had meetings with seniors.
38 We've had columns appearing in newspapers. We've responded to letters. We even
39 printed a brochure in two languages. So, we've been trying to spend quite a bit of time
40 educating the public. And I understand there are some who still have not gotten the
41 message. And we've talked about if the fee passes, what we would put in place is a rather



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1 extensive outreach campaign to make sure we get the right word out to the community.
2 One of the things that we do discover is that as we educate people about how this really
3 works, people do seem to get more comfortable with it. And that's the part of what we're
4 going to try to do today is explain a little bit about how this works. I think, fundamentally,
5 too, we make a mistake by putting out the words "ambulance fee." That is a component of
6 this. But the primary purpose of this is to get third-party reimbursements and I know others
7 have suggested other things to call this. But this is about getting money that basically is
8 sitting out there available to be made-- Money that can be made available to us because it
9 is there. Medicare and Medicaid would pay 62% of the revenue that we're talking about.
10 Almost \$9 Million of the revenue would come from the federal government. That doesn't
11 raise anybody's fees. Your Medicaid charges aren't going to go up. It is sitting there
12 waiting for us to take it, 62%. I know there's been a big debate about insurance. \$5.2
13 Million of our estimate comes from third-party insurance, you know, multi-- I don't know if
14 we can say a billion-dollar industry in this county but premiums certainly are in the
15 hundreds of millions. \$5 Million out of a hundred, hundreds of millions or even billion
16 dollars is an insignificant amount. So to argue that somehow it's going raise premiums, I
17 think, is a specious argument. Also, on the insurance front, you know, I was thinking about
18 this. You look at your federal health benefits--we have a lot of federal employees in the
19 region--there is no separate premium for Montgomery County residents. As a matter of
20 fact, the premium applies to everybody in the region. Every county in this region except for
21 Loudoun County and Howard County have an ambulance fee in place. So, quite frankly,
22 we believe that in most cases, we might even be subsidizing ambulance fees in other
23 jurisdictions because of the premiums that are paid by Montgomery County residents. So,
24 the money, basically, most of this money is there for the taking. In terms of the complexity,
25 we've heard a lot about, you know, we don't want to see a bill, no paperwork. Under the
26 proposal we have before you, nothing really changes in terms of the county resident.
27 County resident has an emergency, they call 911, an ambulance comes, picks them up,
28 takes them to the hospital, nothing changes. They don't fill out a form on the way to the
29 hospital, they don't fill out a form at the house, there's no question that that goes on at the
30 house when you get there. When you get to the hospital, they will sign-- In the past, it was
31 a piece of paper which they have always signed. It will be done electronically based on
32 the supplemental that's now before you with the electronic books. All of the information,
33 the insurance information, comes from the hospital. We had earlier proposed possible
34 follow-up insurance form in case we couldn't get insurance information. Based on some
35 concerns raised, we've actually dropped that. We will work with the hospitals in every case
36 to get that insurance information. So no paperwork, really, nothing changes for county
37 residents. And that's the bottom line. There are no additional costs, we believe, to county
38 residents if this bill is passed. What I'd like to do now is turn it over to Kathleen and see if
39 she can walk us through some more specifics.

40
41 KATHLEEN BOUCHER:



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1 Sure. Thank you, Tim. What I'll do briefly is discuss the Emergency Medical Service Fee
2 Model that is reflected in the bill and the proposed regulation and then turn it over again
3 briefly to Acting Chief Richard Bowers, and Assistant Chief Scott Graham, to speak to
4 some of the operational implementation issues, and then we'll turn at that point to Joe
5 Beach to speak again briefly to the needs in the Fire and Rescue Service, the projected
6 revenues, and how we projected those revenues would be used. We also have here with
7 us today a legal consultant that we've been working with for the past year, Doug Wolfberg,
8 who works at the law firm that focuses solely on legal and business issues related to
9 Emergency Medical Services Billing, and he's here if there are any questions that come
10 up the county staff can't handle related to the law, particularly the law governing this area.
11 So turning to the bill itself, I know this can be a somewhat complex issue, but the bill itself
12 is very simple, actually. It's a four-page bill. You can find it on circles 1 through 4 of your
13 packet. In essence, it authorizes the county to impose a fee to cover the cost of
14 transporting a person who needs emergency medical services to the hospital. The bill
15 makes a distinction between residents and non-residents in terms of how co-pays and
16 deductibles are handled and how we handle billing in the case of someone who's
17 uninsured. The bill for county residents would limit liability to insurance coverage and has
18 language in the bill that indicates that county residents are deemed to have prepaid co-
19 pays and deductibles, and if they're uninsured, the fee itself through the payment of local
20 taxes. The reason that we made that distinction between residents and non-residents is
21 that Medicare Law allows us to make that distinction. But the flipside of that is that
22 Medicare Law does not allow us to not charge non-county residents for co-pays and
23 deductibles and, if they're uninsured, for the fee, and if you want to get into the details of
24 the Medicare Law and why we have to essentially charge non-county residents for co-
25 pays deductibles and fees when they're uninsured, I would turn it over to either Mark
26 Hanson or Doug Wolfberg. But that's the reason why the bill makes that distinction. There
27 is a proposed reg that the County Executive published in the June 2008 county register.
28 The reg is actually the vehicle for establishing the fees for the new fee. The fee ranges
29 from \$300 to \$800, depending on whether it's basic life support services that the patient
30 received versus more advance or specialty care. And that regulation is on circle 7 through
31 8 of your packet. I should mention that the County Attorney did address a legal issue that
32 arose in the course of the Public Safety Committee's deliberations on the issue. And the
33 issue that the County Attorney dealt with was indeed whether the county had authority,
34 legal authority, to limit responsibility of county residents to only insurance. The County
35 Attorney's opinion is in your packet. And the bottom line was that the County Attorney
36 concluded that the bill needed to be amended to expressly state the rationale for making
37 the distinction between residents and non-county residents. And the rationale, again, as I
38 mentioned a moment earlier, is that county residents are deemed to have paid prepaid co-
39 pays and deductibles--and again, if they're uninsured, the fee itself--through local taxes.
40 And so, after reviewing the County Attorney's opinion, the County Executive did send over
41 amendments that add language to the bill that says exactly that. The county residents are



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1 deemed to have pre-paid those charges. The bill puts us on a very similar playing field to
2 almost all of our surrounding jurisdictions in the D.C. Metropolitan Area. The only
3 jurisdiction, really, in our surrounding area that doesn't impose this kind of fee would be
4 Howard County in Maryland and Loudoun County in Virginia. All the other surrounding
5 jurisdictions do. And if you wanted to do look in your packet on circle 46, we have a chart
6 there that shows some basic information about the number of transports in each of those
7 jurisdictions, the fees in those jurisdictions, and a ledger to compare to the fees that are
8 proposed in this bill. I think I would mention also that it also is not out of the ordinary,
9 when you look across United States, and Doug Wolfberg can speak to this, that when you
10 look around United States, 61% of Emergency Medical Services are funded by user fees.
11 And so, we will become a part of that figure as well if this bill were enacted. That's the
12 basic framework behind the bill and the proposed reg. And I'd be happy to answer any
13 questions or turn it over to Acting Chief Bowers and Assistant Chief Graham, to speak to
14 some of the implementation and operational issues.

15
16 **RICHARD BOWERS:**

17 Thank you. I'm Acting Fire Chief Richard Bowers. Thank you very much for the
18 opportunity to comment. As Mr. Firestine has already indicated, we are in some very
19 challenging financial times. And certainly, the news the council just got over the last 24
20 hours certainly is an indicator of that. Montgomery County Fire and Rescue Service has
21 many resource needs. And the EMS transport legislation is a revenue recovery
22 mechanism that will help fund the critical resources and the needs for the current
23 volunteer personnel in order for our service to continue the quality service to the citizens
24 of Montgomery County. I'd also like to note before turning over the rest of this discussion
25 to Chief Graham is, as a result of the discussions we've had counsel, with the Executive
26 Plan, certainly with the volunteers, and as importantly, with the community, there had
27 been amendments, as Kathleen indicated, to the legislation. And that's a very important
28 piece of this discussion today for everyone to understand that because of the dialogue
29 and because of the adjustments made to the legislation, we believe that we have a very
30 good piece of legislation that will help fund the resource needs in Montgomery County Fire
31 and Rescue. So, if I could, I'd like to turn it over now to Chief Graham to talk about the
32 implementation and the program day-to-day operations.

33
34 **SCOTT GRAHAM:**

35 Thank you, Chief. Assistant Chief Scott Graham, in the Office of the Fire Chief,
36 Montgomery County Fire and Rescue. As we have presented to this Committee, and
37 certainly to full Council before, the day-to-day operation, the day-to-day delivery of
38 emergency medical services to the citizens that we serve will not change. When people
39 pick up 911, they call 911, they receive the best fire and rescue service from the best
40 combination department in the nation. The patient care providers, the EMTs and
41 Paramedics, will not engage in dialogue of, "Hello, my name is Scott. I'm your Paramedic.

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1 What's your credit card?" So let's dispel that rumor right now. The patient care providers
2 will deliver care in a professional manner, will capture pertinent patient care information on
3 our electronic patient care reporting system. We'll deliver the patient to the hospital. The
4 patient at the hospital or a receiving party at the hospital, depending on the patient's
5 condition, will sign for that patient. We have delivered this care and we have brought you
6 to this medical care facility. After that patient care encounter is finished, the EMS
7 providers go back to the field and ready themselves for the next call. At that point, the five
8 local hospitals have agreed to share with us electronic demographic information--name,
9 address, telephone number, et cetera--and electronic insurance information that they will
10 gather from the patient as part of their normal business process. We then, through an
11 electronic dump through a secure link, will take that information from the hospitals, marry
12 that up with the patient care report, which we have to do by law anyway, and send that for
13 processing to a third-party billing company. It's a standard process used in emergency
14 medical services industry. It is transparent to the patient. It is transparent to the patient
15 care provider. Our EMTs are filling out the same report that they would for a normal
16 emergency medical services call. The process, then, from the third-party billing company
17 is sent to the insurance companies or through Medicare or Medicaid, whatever the
18 provider is. If a patient has no insurance, if a patient has an insurance policy that doesn't
19 cover, the legislation is written that there is no responsibility to the patient. We're not
20 contacting the patient and asking them for insurance information. We're not contacting the
21 patients and we're not asking them for money. That is it. I mean the legislation has been
22 worked through help from the council, through help from the citizens, as Chief Bower said
23 earlier, to make this a very, very seamless, transparent, simple piece of legislation. We're
24 not going after anybody's home. We're not going after collections on people. This is a
25 revenue recovery for funds that are already provided for in the majority of our insurance
26 policies. As somebody had said earlier, we're, in essence, subsidizing the other
27 jurisdictions that do recover these revenues. We run a race right now between
28 catastrophe and providing resources. And without this legislation, without this funding
29 source, we're giving catastrophe a 40-yard jump. Through great help from the County
30 Council, the Apparatus Management Plan has been started, but we need to be good fiscal
31 stewards of that. We need to maintain it. We need to maintain the opportunity for
32 volunteers within this county. As said earlier, we need to strengthen the long-term viability
33 of our Fire and Rescue Service. And this provides us with a resource and a funding
34 source to do that. Thank you.

35
36 COUNCIL PRESIDENT KNAPP:

37 Okay. That's your team? All right. Councilmember Leventhal?

38
39 TIM FIRESTINE:

40 I think Joe.



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1 COUNCIL PRESIDENT KNAPP:

2 Oh.

3 JOE BEACH:

4 As Chief Bowers, mentioned, there's significant resource needs within the Fire and
5 Rescue Service. I'll call your attention to the chart on Page 37 in the packet. The resource
6 needs that were given the highest priority and that are driving partially the need, we
7 believe, for the EMS transport fee are detailed there. Of course, the Council has already
8 been supportive of the Electronic Patient Care Reporting System. But also, we have the
9 operating budget impact for staffing the new stations that Mr. Elrich mentioned during the
10 discussion of the Savings Plan with the opening of the West Germantown Station in this
11 fiscal year. In the future, we'll be opening the East Germantown Station as well as Travilah
12 and several others. In addition, we have two phases of the 4-person staffing initiative and
13 four more to go. Also, we're making at this point an allocation for sharing these proceeds
14 with the LFRDs as well, and then, of course, to support the apparatus management plan
15 and to continue to refresh and provide reserve units and replacement units for the Fire
16 and Rescue apparatus including EMS units. As you can see from this chart, in year two--
17 I'm just calling your attention to--the resource needs at \$2.2 Million actually outstrips what
18 we project to collect from the EMS transport fee. So, I think that just underscores the fact
19 that the resource needs here are so significant that even with this, we're still going to have
20 some changes ahead. Turning to Circle Page 38-- Excuse me voice. It's part of the
21 season right now. Some more detail on the projections of the remedy to be collected from
22 the fee in a half year. We project about \$7.3 Million. This is gross revenue before
23 collection costs in the first full year. In year two, we project about over \$15 Million in
24 revenue. Below that, we have some of the cause of implementing that. The third party
25 billing contractor is based on a neighborhood jurisdiction that they were able to contract
26 with. So, we believe that's a reasonable baseline, is 5.5%. We do have an aggressive
27 community outreach program as well as some other staffing that we believe would be
28 necessary to successfully and effectively implement this program. Net revenues in the first
29 full year of implementation would be nearly \$14 Million which otherwise would have to be
30 available from an increase in the local property tax or reduction to other services within
31 the county government. So, as you can see from this presentation, the detail we
32 presented before to the Council, very significant resource needs currently with the system
33 and in the long term that are only going to grow in the level of cost. And it's very difficult
34 for me to imagine as the Budget Director how are we going to step up to this costs in the
35 absence of these new revenues.

36
37 COUNCIL PRESIDENT KNAPP:

38 Councilmember Leventhal?

39
40 COUNCILMEMBER LEVENTHAL:



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1 Joe Beach, let me just understand. On Circle 37, this Chart that says "Potential Reserve
2 Resources," all of these costs for years 1, 2, 3 and 4 are new costs over and above the
3 base Fire and Rescue service budget.

4
5 JOE BEACH:

6 That is correct.

7
8 COUNCILMEMBER LEVENTHAL:

9 Well, you know, I wish that every revenue source was easy and pain-free and that nobody
10 complained about paying taxes and that we could fund all the services that people want
11 and never encounter any complaints about how we raise the revenue. But that's not the
12 case. There isn't any easy or painless way to raise revenue. And I'm second to no one in
13 my admiration for the volunteers. It takes a very, very special kind of person to run into a
14 burning building when everyone else is running out. I don't have that kind of courage and I
15 have great admiration for the volunteers. And we need them and they do have a great
16 history in this county and they do provide us with enormous cost savings. And they're
17 dedicated members of our communities. I can't say enough good about our volunteers.
18 But I was here five years ago when Councilmember Knapp introduced his legislation to
19 reform the Fire and Rescue Service. And it was exactly the same arguments then. All the
20 volunteers were going to quit, your house was going to burn down, and your grandmother
21 was going to die. Everything was going to fall apart. Kill the bill, it was fortuitous. There
22 was a movie out called "Kill Bill," right, at the same time, Hollywood came out, and so, the
23 lawn signs were up all over the county illegally in the median strips, in people's yards, in
24 front of every firehouse. "Kill the bill, kill the bill, kill the bill." And rhetoric was that if this
25 Fire and Rescue Service reorganization passed and if a single fire chief was empowered
26 to make decisions on behalf of the Fire and Rescue Service, that was it for the Fire and
27 Rescue Service. So, it's a little difficult for me now to maintain a sense of perspective on
28 the arguments that are made against this proposal, which as we've heard is in place in
29 Fairfax and Frederick and the District of Columbia and in Prince George's County, and the
30 dire effects that are being rejected here that, "Everyone's going to die. Your mother and
31 father are going to die. Nobody is going to call the ambulance. Your house is going to
32 burn down." Those things are not in fact occurring. So, you know, we've got to kind of
33 assess what we're hearing and try and keep a sense of perspective. We're gonna face a
34 tough choice about every single vote we cast. And we're going to get lots and lots and lots
35 of email in opposition to just about every single decision that we have to make. I wish that
36 this were easier, but, you know, it isn't going to be easy. We didn't run for office thinking
37 that it was going to be easy. And I don't think this is going to pass today. But I suspect it's
38 going to be back before us. I don't think this is going to settle the argument because as
39 the real magnitude of the really hard choices we're going to make including the really hard
40 choices we're going to make about staffing new stations, 4-person staffing, and apparatus
41 management, which I agree with Chief Bowers and Mr. Beach. I have no idea how are we



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1 going to pay for those. I can't imagine that we're going to be able to pay for them. As the
2 real tough choices are made and as we get all the emails from communities saying, "What
3 do you mean you can't open my fire station? What do you mean you can't staff my fire
4 station? What do you mean I can't have the apparatus that my volunteer company here in
5 the neighborhood insists that we buy?" we're going to start getting a lot of emails about
6 that too. And it doesn't even look to me like the revenue recovery measure, the third-party
7 reimbursement measure, even comes up with a portion of those costs. So, we don't have
8 any easy choices here, but I do think it's important that we keep this in perspective. And I
9 do want to echo what the Council President said. People are scared already as a result
10 over the debate about a fee which isn't even in effect. And as much as I am grateful for
11 the service of the volunteers, I have been assured and assured and assured that the
12 number-one objective is that they want people to feel confident that when they call an
13 ambulance, that they don't have to pay. And yet, the idea is being placed in people's
14 minds that they have to pay already. And where is that coming from? Are we really
15 engaging in a real debate or we scaring the public? That's a question we should all reflect
16 on our conscience about.

17
18 COUNCIL PRESIDENT KNAPP:
19 Councilmember Elrich?

20
21 COUNCILMEMBER ELRICH:
22 Phil is right about there being differences of opinion on the committee. And I represent a
23 pretty different point of view than those of the Committee Chair. The most important thing
24 we do is not preserve the volunteer fire service. With no disrespect to the volunteer fire
25 service, the most important thing we do is that we protect fire service in Montgomery
26 County. For all the valuable contributions that volunteers make, 92% of the people who
27 run engines are career, 90% of those who run the trucks are career. 52% of the people in
28 Rescue Squads are career. 71% of the people in ambulance are career. 84% of the
29 people who are medics are career. Now, the total, 83% of the people who deliver the
30 services in this County are career. Would it be much more difficult to do this without
31 volunteers? Absolutely. Is it a partnership that we all want to nourish and encourage? You
32 know, as I said earlier, I would love to have the fourth person on these trucks filled with
33 volunteers. But the fact remains that we could not run the fire service in Montgomery
34 County based on the volunteers, not their capital contributions and not their labor
35 contributions. And we have an obligation to provide fire service to everybody in
36 Montgomery County in the long run. And as George points out and as I tried to note
37 earlier, we're heading into almost impossible straits. And if we are unable to expand the
38 services, then are we going to then be responsible for poor response times and lives that
39 are lost because of poor response times? If we can't buy the equipment we need or staff
40 at the stations we need and our response times creep to 9, 10, 11, 12, 13 minutes and
41 lives are lost because we're unable to keep up with those needs, are we going to pretend,



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1 like, you know, that just was just a natural occurrence and the decisions we make today
2 have no bearing on that, the revenue decision--you know? And this is certainly in part a
3 revenue decision to provide the resources to enable us to expand the department--has no
4 moral consequences if we don't carry it out? And I feel like we're in a very difficult
5 situation. And I'm concerned about the debate because it's not just a matter of being
6 afraid of a fee that's not in effect. We make people afraid of a fee that's never going to
7 exist. I mean one of my conditions of supporting this bill was that there be no fee, not a
8 dime charged to a county resident and no bill going to a county resident. And I challenged
9 the department to come up with a way to do that because I would not vote for this if there
10 was a bill going to a county resident, if it was handled, as in the case of Pittsburgh that
11 Phil alluded to in one of his letters, where the person actually does get a bill and they're
12 liable for the co-payment, and if they're turned down, they're liable for the payment. We're
13 not talking about a system like that. We're talking about a system where nobody in the
14 county is even going to see a bill. So, why would anybody go out to Leisure World or any
15 place else and tell people, "Be very afraid of this ambulance fee and worry about whether
16 or not you're going to be able to pay for it and let the County Council know that you don't
17 want a fee," when we had no intention of imposing a fee on them? We have made people
18 afraid of something which we had no intention of doing. And that's a real shame because
19 it prevents us from having, really, I think, serious discussion about this. There are needs,
20 and I understand that the volunteers have ongoing concerns about the integration into the
21 department on the whole. I've tried as a councilmember to be supportive of the volunteer
22 needs repeatedly. I look favorably on the request you made for us to look at
23 reorganization. But because I do that does not mean that in this case, I can look away
24 from the needs of the larger department. And I see those needs to be very great. I
25 continually hear about the Fairfax model. You know, yeah, the administration came over
26 originally, and a lot of what they did was based on the Fairfax model. But they walked
27 away from the Fairfax model a long time ago. This isn't the Fairfax model anymore. But
28 we're still having the debate, and I still see it in the writing, that the county is going to do
29 the Fairfax model. Well, I wouldn't vote for the Fairfax model. Is there anybody else on the
30 Council who'd vote for implementing the Fairfax County model? So, that's, like, a straw
31 person up here. So, I'm looking at this and I think it's not about a hunger for money, which
32 I think also demeans the debate we're having. I'm not hungry for money. I don't see
33 people who are telling us that they've got to staff these stations as being hungry for
34 money. I think people are looking, as Tim said, at money to be taken from Medicaid and
35 Medicare to the tune of \$9 million for what we're perfectly well entitled to, and I've looked
36 at other jurisdictions that have imposed these fees. And that's a big discussion in the other
37 jurisdictions as well who they see getting large portions of their revenues from Medicaid
38 and Medicare reimbursement. And I don't have any problem with doing that. Same with
39 the issue about raising people's insurance. The fact is, if you live in Montgomery County
40 and you're employed-- Well, let's say if you work in Montgomery County, you could live
41 anywhere in this region. The odds are, you live in a place that has an ambulance fee. You



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1 can pick all the jurisdictions around here. If you don't live in Howard and don't live in
2 Loudoun, you live in a place with an ambulance fee. The employer is charged the same
3 for every employee, regardless of whether they live in Montgomery County with no
4 ambulance fee or Fairfax County with an ambulance fee. There's no difference. So, it's not
5 going to raise anybody's insurance fees. And if it were, we're talking about collecting \$5
6 million out of insurance with a 5 million-person population in the D.C. metropolitan area
7 which all this is covered by, I'm asking about a buck a person. And I would gladly
8 contribute my buck a person and several bucks a person if that was ever really to be an
9 issue for anybody. I agree with George that we unfortunately are not going to be able to
10 pass this today because I don't think, you know, there's a will in the Council to do this in
11 light of the vast public misperception of what this bill is about. And I think that's
12 unfortunate. I think we're going to need to come back to this. I think we need to revisit this,
13 you know, sooner rather than later. I appreciate your presentation today. I've got to say,
14 this is the clearest presentation that you've given and it would have been helpful had the
15 discussion begun at this point and not ended at this point, because then we could have
16 gotten down to, you know, what are the real issues here, what are the real stumbling
17 blocks. We never would have had a discussion about "County Imposes Evil Fee On The
18 Poor And Impoverished," and, as George said, you know, fearful that they're going to die
19 because we're not going to respond to them. We could have maybe avoided a lot of that.
20 But we are where we are. And with that said, I mean, I would move to table this thing.

21
22 UNKNOWN SPEAKER:
23 Second.

24
25 COUNCIL PRESIDENT KNAPP:
26 Okay. We have before us a motion to table which is a non-debatable motion. So, we vote
27 up or down on the motion to table. There are councilmembers with lights on. We can still
28 come back to questions and comments that councilmembers may have that we don't
29 have. We won't decide the bill by force to do that. So, all in support of the motion to table
30 can indicate by raising your hand. That is unanimous. Okay. That was easy. Any
31 additional comments or questions that councilmembers may have for the Executive
32 Branch at this time? Councilmember Trachtenberg?

33
34 COUNCILMEMBER TRACHTENBERG:
35 Yes. I actually do want to make brief remarks. In fact, I was trying to decide what I was
36 going to say today because, you know, this is clearly a discussion we've been having in
37 this building for quite a few months. And I can recall well over a year ago, the first
38 conversation that I had with the Fire Chief, Chief Carr, about the fee. And he asked me
39 point blank about whether I'd support it, and I indicated, "No," and he asked me why. And
40 what I chose to talk with him about was something very personal which I really haven't
41 talked about publicly before, but I really want to share it before we end the conversation



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1 this afternoon, because I think it really speaks to a great deal of what some of my
2 colleagues have shared. You know, back in another lifetime, about 15 years ago, I was
3 very ill with cancer and I didn't have insurance. The first I had it, I did. Second time, I
4 didn't. And I had been doing some chemo. I was severely dehydrated and I didn't call an
5 ambulance. Well, I didn't call the ambulance because I was ignorant. I didn't call the
6 ambulance because I was afraid. I had a stack of bills on the kitchen table that I couldn't
7 pay for. And I would submit to my colleagues that right now at this moment, there are
8 hundreds and thousands of people that are in that position. It's not a unique position. I
9 went on to the hospital with the assistance of a friend. Everything is fine. I'm here today.
10 The point of my story and what it illustrates is that the motivator here around this issue is
11 fear. And we can debate whether or not there should be fear. We can debate whether or
12 not there was misinformation provided to people in the community. That's fair game. But
13 the reality is that there are many, many people who live here in Montgomery County who
14 believe that they're going to be billed. They believe that they're going to have to pay and
15 that needy people must suffer. And I would submit that until those three issues are
16 addressed adequately, I don't see how this fee is going to pass. Fear is a very powerful
17 motivator, and I know that from my own personal experience. I'm not looking to inflict guilt.
18 I'm just looking to put a dose of reality out there. And I just very firmly believe that this is
19 the wrong time to implement a flawed policy, and I would ask that if you're going to have a
20 conversation about this again, that we have an honest conversation and one that
21 addresses the concerns of the public that we all represent.

22
23 COUNCIL PRESIDENT KNAPP:
24 Councilmember Floreen?

25
26 COUNCILMEMBER FLOREEN:
27 Well, I think this has been a very regrettable conversation. The real fear is what we talked
28 about earlier. Right now, you're looking at, what, half a billion dollar deficit? I don't know
29 what the volunteer community is thinking, frankly, for waging this war against this effort.
30 It's going to come back. People are facing, frankly, far greater losses from the lack of
31 services and support. I was thinking of my time in an ambulance. I was unconscious,
32 spent a week in intensive care. We all come to these services without-- We weren't
33 motivated-- we didn't choose to need life support. We do not choose to need the great
34 services of the Montgomery County Fire and Rescue Services. And I think it is really very
35 sad that we're having this argument about, what, \$15 million after we've just heard of the
36 very significant cuts that we're just starting to make. We'll look forward to Stage 2.

37
38 COUNCIL PRESIDENT KNAPP:
39 Councilmember Ervin.

40
41 COUNCILMEMBER ERVIN:



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1 Thank you very much. I think Councilmember Floreen stated very well when she said this
2 has been regrettable. And I'd like to just look toward the future right now. We got another
3 bite at the apple. And I would just encourage the Executive Branch to do a little bit better
4 job of getting out to the public on this thing. And we've had a few conversations about this
5 early on. When the issue first came up, I was seriously in the middle. I didn't really know
6 which direction I was going to go and all of a sudden, you know, we started getting lots of
7 emails in our office from folks who are very scared about the prospects, many of them
8 elderly, who really did believe that, somehow, this thing was going to hurt them. And, so,
9 let's try to work together this time. What I think was most regrettable from my own
10 personal point of view is that it happened on both sides. We had the volunteers who, you
11 know, had their point of view. And then we had the rest of the fire service on the other side
12 and then somehow the Executive Branch was in between there, and we were getting a big
13 squeeze. You know, as George said a little while ago, you know, we didn't take these jobs
14 to make easy decisions. Every decision we make are very difficult. But I will really
15 encourage all of us. I've been really heartened hearing from all of my colleagues on the
16 dais because we've been twisted and pulled and tortured in any number of different ways
17 on this issue. And I know that everybody brings to the table a very heartfelt position on
18 this thing. But, you know, I have this picture in my mind about a political cartoon about a
19 man in the middle of the ocean and he has a life preserver on and around the life
20 preserver, it says, "Ambulance fee." And he looks up and there's a huge tsunami coming
21 at him that says, "\$500 million deficit." So, here we are looking at the tsunami coming and
22 we're fighting all this tiny, in the scheme of things, amount of money. I think we can do
23 better. So, I'll just encourage us as we move forward to keep the lines of communication
24 open. I don't really appreciate getting phone calls, threatening phone calls, from people I
25 consider to be my friends about what my position is on this particular issue. But I think this
26 has been an encouraging conversation.

27
28 COUNCIL PRESIDENT KNAPP:
29 Vice President Andrews?

30
31 COUNCIL VICE PRESIDENT ANDREWS:

32 Thank you, Council President Knapp. Well, I'll come back to my point that it's not primarily
33 about money. It's about policy. Let me give three facts. One is that we haven't yet had an
34 insurance company say to us it will not increase rates if this were adopted. Second, we
35 have more than 150,000 people who work here that don't live here who will subject to this
36 fee. It's not the case that you'd have no one subject to this fee. You'd have anybody
37 visiting relatives here subject to this fee. And the bill has not been amended in a way that
38 has anything above the Federal poverty guidelines which cover almost no one who would
39 be in that situation. So, you have more than 150,000 people who come here every day
40 who will be subject to this and many of whom will know about it and who will factor it in, in
41 some respect, to their thinking. So, it is a fact that we have a lot of people who'll be



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1 subject to the fee. In terms of the argument that if only people have the right information
2 about this, they would support it, and I know the Executive feels that way, but the fact is,
3 the Executive and the representatives of the volunteers spoke to several groups together--
4 the Western Montgomery County Citizen's Advisory Board, at the town of Kensington with
5 the Fire and Rescue Commission and the Silver Spring Citizen Advisory Board. And all of
6 those four cases, after hearing both sides, and certainly, the folks there had a chance to
7 hear what the Fire and Rescue Service advocated on this, what the County advocated,
8 they came out against the bill. So, both sides have had their opportunity to get the word
9 out, and perhaps they will continue to, but the public has weighed in very heavily on this
10 and has basically said, "It's a bad idea," loud and clear. And I do not think it's productive to
11 continue it. I think that we should focus our energy. I think we'll be a lot more out of
12 focusing energy on finding other savings than finding what would probably be between
13 \$10 and \$14 million, because the consultant who's on report said that they generally
14 urged you to mark down by 40% in the first year the anticipated revenues. And I know he'll
15 come back and say, "Well, now that we're going to have electronic care, you'll get a larger
16 percent." But the fact is, there's a startup to this anyway and there's training involved. And,
17 you know, I don't want our volunteers going through training. I don't want anybody have to
18 go through training on bill collecting or information collecting. I want them out responding
19 to 911 calls. So, those were some of the things that I...

20 TIM FIRESTINE:

21 But that's where the facts start to diverge. There's no training requirement.

22
23 COUNCIL VICE PRESIDENT ANDREWS:

24 Yes, there is.

25
26 COUNCIL PRESIDENT KNAPP:

27 Well, we'll have another opportunity to debate this, given the motion we just took. But I
28 think it is important. That's a piece that needs to get out. Clearly on Executive Branch, if
29 you listen to the feedback you got here, there's an opportunity to continue to address the
30 policy elements of this which then can enable the economics of this to occur. I think that's
31 important. I appreciate the presentation that the Executive Branch made. I appreciate the
32 participation on today's discussion from our volunteer community and from our Fire and
33 Rescue folks who are in the room as well. There is a lot of misinformation. And I think I
34 would like to end our discussion where I started the discussion, which is, if you live in
35 Montgomery County and you have an emergency, call 911 because it's okay. And I think
36 that is the first thing that we need to make sure everybody understands right now. And I
37 think that there is time to continue to have this discussion. I think it is meritorious that the
38 economics that we have out there, and I agree with the Council Vice President on this. If
39 the only reason to do this is economics, that's not a sufficient reason. There has to be
40 good policy behind it. And I think that that is now the compelling element that needs to get
41 addressed as well as communication to our residents as to what this really does. And I

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1 think it has occurred in your presentation. It took a while to get there. And so, I think
2 there's an opportunity to continue this dialogue. In light of the other budget issues that
3 we're going to address, this is not an insignificant piece. But I thank my colleagues for this
4 discourse today. I think it was important for us to have it as a full council. And with that,
5 the Council will stand in adjournment. I wish everyone a happy and safe Thanksgiving.
6 Again, we'll end the day where we started. Please remember during the coming days
7 those less fortunate among us. This is a difficult time. We're still a county of significant
8 resources and abundance. Please reach into your pockets to make sure you look out for
9 those least among us. And I thank you all very much. And it is adjournment for everyone
10 except the PHED Committee, who will meet on the Fifth floor Conference Room in about
11 ten minutes to walk over one element that we didn't get finished yesterday in the
12 Committee. And so, I thank everyone very much for their attendance today. And again,
13 have a happy and safe Thanksgiving.
14